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Press Release

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ESTABLISHMENT OF NATIONAL COMMITTEE FOR HUMAN RIGHTS AND FREEDOMS CITED
AS CAMEROON INTRODUCES SECOND REPORT TO HUMAN RIGHTS COMMITTEE

Experts Question Effectiveness of National Committee,
Difficulties of Transition to Multi-Party System, 1992 State of Emergency

A National Committee for Human Rights and Freedoms had been established as an advisory body to protect fundamental rights and freedoms in Cameroon, the Director of Political Affairs and Minister of Territorial Administration of that country told the Human Rights Committee this morning.

Even so, representatives of Cameroon, introducing their second periodic report on fulfilment of obligations under the International Covenant on Civil and Political Rights, acknowledged that difficulties experienced in changing from a one-party to a multi-party system in 1990 had hindered full protection and respect of human rights.

Expressing similar concerns, Committee experts questioned the powers, independence and effectiveness of the National Committee, in light of reports that the Committee's president had been incarcerated and his documents seized during an investigation of an alleged violation of human rights.

Experts also raised questions about the derogation of rights under the state of emergency declared in 1992 during the unrest that followed the Presidential election, which independent reports had described as fraudulent. While recognizing the obvious importance of the political changes taking place in Cameroon since 1990, experts requested much greater detail in the examination of difficulties encountered by Cameroon in implementing those changes.

Members went on to question whether the difficulties of transition in 1990 from one-party rule to a multi-party system had been the primary source of the violations of so many fundamental rights. One expert asked how there could be a true multi-party system, if the members of the opposition parties were being jailed.

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According to Committee members, numerous reports of atrocities and other serious violations of human rights had been reported by various non-governmental organizations, such as Amnesty International. They called upon the delegation from Cameroon to be more forthcoming in their responses to the allegations of such violations, which included arbitrary detention and torture.

Other questions were raised about the nature of the "powerful factors" mentioned in the report that militated against the equality of women. Experts also requested further information on such issues as genital mutilation of women and the actions taken to counter traditional forces that kept women underrepresented in the Government.

The Committee will meet again at 3 p.m. today to continue its examination of the second periodic report of Cameroon.

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Work Programme

The Human Rights Committee met this morning to begin its examination of the second periodic report of Cameroon on that country's implementation of the International Covenant on Civil and Political Rights.

The report states that the 1972 Constitution of Cameroon guarantees the exercise of individual and collective rights and freedoms throughout the country. Subordinate to the Constitution are a large number of laws and regulations, which have entered into force since 1990, designed to adapt Cameroon's legislation to the requirements of the multi-party system. Those include the Acts of 1990 regarding the state of emergency, the organization and competence of military tribunals, freedom of association, as well as the holding of public meetings and demonstrations. The decrees of 1990 established conditions for the entry, residence and departure of aliens, and set up the National Committee for Human Rights and Freedoms.

The law and Constitution of Cameroon gives a number of international instruments, which the country has ratified and promulgated, greater authority than national law. Among the instruments ratified are the Convention against Torture, Convention on the Elimination of All Forms of Discrimination against Women, International Covenant on Civil and Political Rights, the Optional Protocol to the Covenant, and the International Covenant on Economic, Social and Cultural Rights.

According to the report, the main role of the judiciary in Cameroon is to guarantee to all citizens and residents respect for the rights recognized by the legislature, to protect those persons, to settle disputes and to bring offenders to justice. It can take preventative action in that regard to maintain public order. Preliminary inquiries are conducted by officers of the criminal investigation department, who act under the authority of the Attorney General. Protection of human rights also includes judges and officials of the prison service. Human rights are protected during such criminal investigations by the limitation of the period of police custody, transparency in the search for evidence and by physical protection of the suspect. The Criminal Code provides severe penalties for abuses in that regard.

The report also states that judges are required to give both factual and legal grounds for their decisions. After the judge's decision, the appeal procedures offer protection of rights. Among the other organs safeguarding human rights are the independent administrative authorities, including the National Committee for Human Rights and Freedoms, an advisory body.

The rights recognized under the Covenant, the report goes on to say, are guaranteed by the preamble to the Constitution, which has the same status in law as the main body of the text. Although the law recognizes that duly ratified international treaties take precedence over domestic law, the Constitution, as well as certain legislative and regulatory provisions, have embodied principles of the Covenant. Although no court in Cameroon is exclusively responsible for trying human rights violations, existing legislation already offers effective remedies for all complaints.

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The report states that Cameroon's legislation no longer makes any distinction between men and women, who are guaranteed equality by the preamble to the 1972 Constitution. The civil equality of men and women has been upheld in court decisions, although powerful factors of tradition and religion, particularly in Muslim areas, militating against actual equality between men and women. That was a probable reason for the underrepresentation of women in the higher echelons of government.

The Criminal Code, the report states, provides severe penalties for any violations of the right to life, including prison sentences for a woman who terminates a pregnancy and for any person who performs an abortion. Medical abortion is not a crime in cases of saving the life of the mother or in case of rape. Life imprisonment is punishment for causing the death of another person, and in the cases of acts of violence committed during the practice of witchcraft, magic or divination. The death penalty is prescribed for premeditated murder, attempted murder of a government employee, or traffic in toxic or dangerous wastes. The death penalty exists primarily as a deterrent and was implemented in only one exceptional case in the past ten years, apart from the executions of the conspirators of 6 April 1984.

Torture is prohibited by the Constitution and by various laws and regulations. Criminal penalties are laid down for any public officials who are guilty of "violence, brutality or physical assaults" against any detainee or other individual. In the draft Code of Criminal Procedure currently being prepared, every individual must be examined by a doctor of his choice before entering and upon leaving a prison to provide evidence of any illegal treatment. The Criminal Code also imposes a prison sentence and fine on anyone who is responsible for arbitrary arrest or abduction. The Code of Criminal Procedure describes the conditions, legal procedures and reasons for arrests. Compensation for such violations falls within liability under the Civil Code.

The rules applicable to the treatment of detainees are laid down in a 1973 decree which established the penitentiary system and by the Criminal Code. Provisions are also made for juveniles. A juvenile under 14 may be tried, but not given an adult sentence. Because of the country's level of economic development, there is some difficulty in implementing legislation in respect to detention, as prison facilities are inadequate.

The right to equal treatment before the courts is protected by the Criminal Code, the report states. The system of justice makes a distinction between courts of modern law and courts of traditional law in order to bring the law closer to the people. The law does give the judge the possibility of ordering that a case be heard wholly or in part in camera for the purpose of safeguarding public order, public decency or State security. Since 1990, the judgements of military tribunals has been open to appeal and the rights of the defence in such cases was guaranteed.

According to the report, the Constitution provides that the home and the secrecy of correspondence was inviolable. They may only be breached by decision of the judicial authorities. Punishment is provided in the Criminal

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Code for violation of that right. In addition, both the preamble to the Constitution and the Criminal Code protect freedom of thought and religion.

As of 1990, in accordance with law and government policy, no one can any longer feel obliged to go into exile in order to express his opinions freely. Since the entry into force of that legal act in 1990, many measures have been adopted concerning the relaxation of censorship, "which seeks only to protect public order, morality and the reputation of others". The sources of the organs of communication and of the places where they are prepared are protected. The organs of the audio-visual media have been liberalized and are no longer State monopolies. Freedom of expression and the press are being assured.

In addition, states the report, "positive law" punishes racial or religious hatred or any act that denies a person access to public places or to employment on the grounds of his race or religion. The Constitution guarantees the right of peaceful assembly, association and freedom to form trade unions and it is hoped that democratization will be accompanied by trade union diversification, because a single trade union is not entirely compatible with political pluralism. Demonstrations in public may be forbidden by order of the competent administrative authority or their venue changed, if they are liable to cause public disturbance.

The preamble to the Constitution states that the duty of the nation is to protect and encourage the family as the natural basis for human society. Full and free consent is an essential condition of the validity of marriage and criminal penalties have been established in the case of persons who compel another to marry. The Civil Code guarantees spouses equality of rights and responsibilities with respect to the marriage and its dissolution. Despite the clarity of such provisions, there have been lapses in their application, as, for example, the absence of consent in marriage in the Muslim and rural areas and the non-payment of alimony and other indemnities. The difficulties in application demonstrate how urgent and necessary it is for Cameroon to have a family code adapted to local, specific conditions.

The Constitution, which proclaims the unity and indivisibility of the State, sets the policy of the Government in respect of ethnic, linguistic or cultural minorities. The national integration policy is aimed at preventing the rigid application of the majority rules of democracy, lest it result in the exclusion of ethnic minorities from the conduct of public affairs.

Introduction of the report

ZIBI NSOE TOUSSAINT, representative of Cameroon, said that since the submission of the last report, the legislature in Cameroon had adopted a whole series of new laws more consistent with the International Covenant. He emphasized the passage of several laws in 1990. For example, the new law on political parties provided for the free exercise of political activity. No one could be obliged to adhere to a particular political party. During the legislative election of 1992, 36 parties had participated. During the presidential elections, six persons had been active candidates.

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The National Committee for Human Rights and Freedoms, a consultative body, was established in 1990 and it received all the complaints dealing with violation of human rights, he said. It monitored inquiries and made reports to the President of the Republic. It could visit such public institutions as prisons and police stations in the presence of the Prosecutor of the Republic or his representative. Those visits could lead to a report submitted to the proper authorities. It also coordinated actions of non-governmental organizations working for the promotion and protection of human rights and freedoms and could associate with international organizations with humanitarian aims.

He did not claim an idyllic picture of the situation of human rights in Cameroon, he said. He did wish to point out, however, that the Government was moving in the right direction.

Responding to written questions on the constitutional and legal framework within which the Covenant is implemented, state of emergency, non-discrimination and protection of the family and children, Mr. NSOR said that Cameroon had rediscovered a multi-party system after 24 years of a single party system. The concept of democracy had not yet been fully assimilated by militants and leaders of political parties, who considered themselves above the law. With time and a better understanding of democracy and freedom, things would move in the right direction and practices would correspond to the provisions of the Covenant.

He said that although there were times when the Covenant could have been invoked in trials, the defence did not bring up the Covenant but confined itself to domestic law. That might not be due to ignorance, but rather because invoking international law had not been the custom. A significant media campaign had been carried out to disseminate information in the various languages. There was unlimited access to television and radio to speak about the Covenant. The use of the national languages, however, was limited to radio. The Government was trying to translate the Covenant into the national languages, so that those who did not understand the official languages, English and French, could understand the Covenant.

He went on to say that there were various laws to implement the equality of men and women, but traditions curbed the development of women and their full equality with men. Most tribal societies were patriarchal and presented great difficulties to implementing the principle of equality. While the Government had enacted legislation guaranteeing the equality of women, it had not been able to fully implement that objective. If anyone should be reproached, it should be the families where concepts and behaviour were first influenced. He hoped that through education there would be a change in family perceptions and the goal of equality would be realized.

Public authorities were facilitating access to schooling for both young girls and young boys, he continued. Access to public office was the same for men and women. A ministry for women had been established, as well as a ministry concerned with the status of women. The Government encouraged the

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establishment of offices to monitor the advancement of women. In addition, there were various associations that actively participated in the field of women's rights.

JOSEPH EVA, Director of Political Affairs and Minister of Territorial Administration of Cameroon, said that the National Committee for Human Rights and Freedoms was established by Presidential decree on 9 November 1990. The Committee was composed of 19 members, including a president. Representatives on the Committee were drawn from the Ministry of Justice and the Supreme Court, as well as one each from each of the political parties in the National Assembly. The Committee also includes two law professors, two representatives of local communities, two journalists, one representative of the economic and social council, and two representatives of women's organizations. The president and members of the Committee were appointed by Presidential decree for five-year periods.

He reiterated that the Committee was essentially aimed at protecting fundamental rights and freedoms. It received complaints of any violations, monitored all inquiries and carried out investigations that were necessary in case of violations and, in turn, reported to the President. Since it was established, several missions had been carried out in the provinces concerning the concepts of human rights and freedoms. It had organized seminars to inform people about the content and nature of human rights and to make certain that all segments of society were sensitized to the problem. It had taken part in media campaigns and organized radio and television debates. Within the framework of the missions to defend human rights, it had carried out inquiries of possible violations.

He went on to say that a state of emergency had been declared since the last report. The maintenance of law and order had to be accepted by any society to survive. The regime of a state of emergency during such a crisis did involve certain restrictions. Since 1990, laws had reconciled certain types of freedoms with the maintenance of law and order. One of the laws stated that under circumstances such as natural disasters or acts of aggression from abroad, certain restrictions could be implemented. The President had the power in such situations to declare a state of emergency. The decree would specify what part of the territory was under a state of emergency, which could not exceed three months.

In October 1992, he said, the President had declared a state of emergency in the northwest province, following the declaration of the official results of the presidential elections. The state of emergency was lifted after one and a half months. Freedom to enter and leave the province was suspended to prevent violence. The provisions of the state of emergency contained no derogations from the appropriate articles in the Covenant. The conditions of a state of emergency had to be communicated to the National Committee of Human Rights and Freedoms.

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Questions from Experts

BIRAME NDIAYE, expert from Senegal, questioned the report's statement that international law had greater authority than national law. Was it true that a law that was contrary to the Covenant was automatically null and void? he asked. Would it automatically be withdrawn from the body of laws in the country? In Senegal, treaties came first in the hierarchy of laws, but it did not necessarily mean that the domestic laws that contravened the treaty did not count. Judges often interpreted laws to make them appear to be in line with international law. Was that the case in Cameroon? The report sounded too good to be true.

Some of the members of the National Committee on Human Rights and Freedom held jobs in other professions, he continued. Were they allowed to hold other jobs while serving on the Committee? he asked. How did they find the time to act in their capacity on the Committee while performing their other jobs? Recalling an incident when the Chairman of the Committee was incarcerated while trying to investigate a complaint, he asked how a committee could function properly when subjected to that kind of intimidation. Did Islam in Cameroon affect the rules regarding women's equality? he asked.

CHRISTINE CHANET, expert from France, said the report tended to skim over the application of legislation to protect human rights. Having a legal culture and knowing about one's rights did not mean that they would be enforced. It was up to the leaders to see that the law was enforced. She asked for further information on the hierarchy of law in Cameroon and who decided whether international law should be invoked. In addition, any person arrested had the right to protest detention, but that right was not protected under the Cameroon Constitution. She asked for an explanation. Also, she said the report contained little about the organization of the judiciary. Was the magistrate independent? How was he promoted and what were the rules governing his promotion and career?

A state of emergency had been decreed in 1992 in Cameroon, she said. It had been indicated that rights under articles 6 and 7 of the Covenant had not been derogated. During that period, why was article 4 not entirely implemented and why was a statement not made to the Secretary-General, as demanded by that article? she asked. Further, she said the Chairman of the National Committee on Human Rights and Freedom, a body aimed at promoting human rights in Cameroon, had been imprisoned while trying to investigate alleged abuse. It would appear that the Committee had made other investigations, but the conclusions had never been made public. She asked for further information on that, as well as on the multi-party system. What were the laws it must abide by? she asked. Was the multi-party system in line with the Covenant?

ELIZABETH EVATT, expert from Australia, said the report had a considerable repetition of information contained in the first periodic report. It was difficult to ascertain the changes that had occurred in the country.

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She asked whether the National Committee had the power to initiate court action, to obtain remedies or to nullify actions or laws that denied rights guaranteed in the Covenant. Had there been any court determinations resulting from the National Committee's investigations? she asked. How would an individual gain access to the Committee? How did it actually function? Did the Committee have an independent secretariat with its own budget? She noted that there had been serious complaints of obstruction of the work of the National Committee and inquired as to their validity.

She went on to refer to the report's statement that traditional attitudes were often detrimental to the position of women in Cameroon. What efforts were being made to bring customary laws into line with the rights of equality? she asked. There was a need for leadership by the Government in that regard. Disposition of the matter could not be left to the family. How many women were on the National Committee, in addition to the two representatives of women's organizations? She also brought up the issue of female genital mutilation. The Government had reportedly established a national committee to sensitize the public about the issue. How effective had that committee been in attacking the problem?

TAMAS BAN, expert from Hungary, said the report reflected important recent developments in the field of human rights. He mentioned the removal of the requirement that permission of the husband was necessary for wives to gain an exit visa. The equal access of women to the political process was another development of note. The ratification of the Convention on the Rights of the Child was a noteworthy step forward. In addition, the report had not concealed shortcomings in a number of areas.

The major political event during the period covered by the report seemed to be the introduction of a multi-party system, he said. The transition to a multi-party system had taken place in 1990, but mention of the event was limited in the report. It did not describe the impact that such a historic step had on the political structures and on the situation of human rights. More detail was necessary about the new political landscape after 1990.

He asked about the current political regime. What was the structure of the State organs? he asked. Which were the legislative and executive bodies? What was the role of the President? Was there a division of power between legislative and the executive branches? What were the main features of the electoral system? Was there a new law on elections? How many parties existed and how many were actual opposition parties? Was there any intention to draw up a new constitution, since the old one seemed based on the old one-party system?

Although the report had given a positive view of human rights in the country, he said the Committee had received a very different picture from other sources. Harassment and torture of opposition party members and journalists was regularly reported. Incidents of arbitrary detention and killings on political grounds had also been reported. Amnesty International had called for an end to such atrocities. He requested a complete response to the allegations of atrocities.

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OMRAN EL-SHAFEI, expert from Egypt, acknowledged the revolutionary pieces of legislation that had been passed, as Cameroon attempted to move towards a multi-party State. He said much more information was needed, both in the report and in the responses by the delegation of Cameroon, about the changes taking place. He did not think that the Covenant and the Optional Protocol were well known in the country. The Government must inform the appropriate sectors of society about the Covenant. Were there centres of human rights attached to universities or other sources of information on the Covenant? he asked.

The National Committee was a welcome creation, he said, and he requested more information on the functioning of it. What was its authority and what were the difficulties encountered as the country moved towards multi-party government? he asked. Cameroon was putting persons from the opposition parties in prisons and the delegation must be more forthcoming in its response. What rights were derogated from the state of emergency that had been declared?

ROSALYN HIGGINS, expert from the United Kingdom, said she was under the impression that the Committee on Human Rights and Freedoms was doing a good job, but she shared the Committee's anxiety for the safety of its members. She expressed particular interest in recent events relating to political parties.

She said a statement regarding the termination of the state of emergency had been made to the Rapporteur of the subcommittee on states of emergencies, but that did not comply with the Covenant's provisions that full details on the state of emergency must be sent to the Secretary-General and to the Human Rights Committee. That should include why it was needed, the text of the decree, what rights were derogated, and notification of termination. Otherwise, the Committee could not determine whether article 4 was being complied with. It seemed that article 4 had not been considered by the authorities.

According to the report, she said, Cameroon appreciated that self-determination was an ongoing right and since 1990 there had been a move to a multi-party system. However, such a system would not exist unless one could be confident in the voting system. All the observers of the 1992 elections had reported that the elections were fraudulent, which had led to rejection of the results by the opposition and, in turn, to violence and a state of emergency. She asked for information as to what was being done to ensure that future elections were not unfairly conducted. The system had to work in reality, as well as in the law.

MARCO TULIO BRUNO CELLI, expert from Venezuela, said that Cameroon had ratified many international instruments on human rights. Since 1990, there had been a number of positive changes that had raised both national and international expectations. Many of the provisions of the international covenants, however, were not being met. What further efforts was the Government making to meet its commitments? he asked. There were many attempts to justify non-implementation of the Covenant. The report stated that

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numerous human rights violations went unpunished because "potential litigants lack a sufficient legal culture". Democracy was learned by experiencing it. The first entity to be responsible in that regard was the State. What practical machinery existed to ensure compliance with the laws? The Government should make every effort to give prestige to the new institutions, so that rights would be promoted and respected.

WALEED SADI, expert from Jordan, said he was struck by the remark that Cameroon had inherited so many legacies that it was not easy to transfer from a one-party system to a multi-party system. Nevertheless, he detected a determination to move ahead to a democratic society. He had, however, concluded that not all the principles of the Covenant were reflected in the Constitution. He would like clarification. For example, the report said that "generally speaking" there was no distinction between men and women before the law. When there was a conflict between tradition and the law and between religion and law, how did the authorities deal with it? he asked.

According to the preamble of the Cameroon Constitution, human beings, without distinction as to race, religion, sex or belief, possessed inalienable and sacred rights and no one would be harassed because of origin, opinions or beliefs, subject to respect for public order. How did those criteria reconcile with article 2 of the Covenant? he asked. How relevant was the Covenant to the National Committee for Human Rights and Freedom? The Committee should be the first to be fully acquainted with the values of the Covenant. He asked for statistics on the number of complaints registered with the Committee.

RAJSOOMER LALLAH, expert from Mauritius, said the report did not sound like first-hand experience. Both the periodic reports had reflected a regime that had remained essentially unchanged. How was the report drafted and who were its authors? he asked. Did the second report take into account the previous comments by the Committee on the first report? Did the National Committee participate in the drafting of the report? Did the National Committee report on the state of emergency?

He asked about allegations from such non-governmental organizations as Amnesty International, which claimed violations of human rights in Cameroon. Something was not right if such violations were occurring. What weight did the Covenant have in the National Committee? What was actually happening regarding laws dealing with inheritances and family obligations as they affected women? What had the Government done to deal with those issues? There were definite obligations under the Covenant to report on any state of emergency, he added.

BERTIL WENNERGREN, expert from Sweden, said the report unfortunately did not provide deeper insights in the developments in Cameroon since the first periodic report. How had it been possible to make such radical reforms in the political structure? he asked. The report said that numerous human rights violations had gone unpunished. That was a cautious way of admitting that there had been great unrest and difficulties in the move away from a one-party system. What difficulties remained as the reforms continued?

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The National Human Rights Committee was an advisory body, he observed. Was it advisory to the Government and the President as well as to the public? he asked. Would the report of the Human Rights Committee be made available to the National Committee? How did the National Committee participate in the political system and how much real power was vested in it? What role would the National Committee play in the future development of human rights in the country? What educational efforts were made to teach human rights in the schools?

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, said he wanted more information on the beginning of the multi-party system in 1990, as well as about the "revolutionary legislation". The establishment of the multi-party system was praiseworthy. Information from other sources, however, suggested a different reality than described in the report. In practice, the multi-party system did not appear to actually exist. What was being done to educate the public on political matters? he asked. What was being done to educate the members of the one ruling party about the new demands of a multi-party system?

The report said that the role of women was equal to men, but what was the reality of women in schools and the professions? he asked. What positive measures had been adopted to ensure that women could occupy an equal status with men? He asked about the obstacles in the Muslim areas and what remedies could be applied.

KURT HERNDL, expert from Austria, said the report didn't contain the details as to how the Covenant was being implemented by the Government. The National Committee was defined in the report as an advisory body. The nature, composition and the function of the National Committee, however, was not included in the report. The powerful factors militating against equality were not described, nor did the report mention measures to be taken by the Government to remedy those factors. What measures were being taken or envisaged to guarantee gender equality? he asked.

He inquired about the Constitution of 1972 and the amendments of 1984. Were there plans for a new Constitution? he asked. The periodic report said the international instruments prevailed over domestic law. Did that eliminate national legislation which was contrary to international treaty? Had the Universal Declaration of Human Rights been ratified by Cameroon?

JULIO PRADO VALLEJO, expert from Ecuador, said the establishment of the National Committee was a positive step, but it was simply an advisory body. What powers did the National Committee actually have and how independent was it? he asked. If the members were appointed by the Government, the National Committee probably wasn't sufficiently independent. There was an occasion where the president of the National Committee had been detained by the police and his documents seized.

Many complaints on violations of human rights had been reported, he added. Why had they occurred? he asked. Were they related to the change in political system? Was the failure to punish the violations an indication of the situation in the country? Was there no programme to educate the people, as well as the police and social sectors, about human rights and fundamental freedoms? What was the extent of the derogations from the rights in the Covenant during a state of emergency?

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EXPERTS EXPRESS CONCERN ABOUT TREATMENT OF PRISONERS IN CAMEROON.

AS HUMAN RIGHTS COMMITTEE CONTINUES EXAMINATION OF REPORT

Cameroon Says Poor Economic Situation Prevents Improvement of Prisons

As they continued their examination of the second periodic report of Cameroon on the implementation of the provisions of the International Covenant on Civil and Political Rights, experts of the Human Rights Committee this afternoon expressed concern about the treatment of prisoners and other persons deprived of their liberty in Cameroon.

To questions about the inadequacy of prison facilities, the representative of Cameroon replied that the demographic explosion and the rural exodus had brought about an increase in the number of crimes and a growth in the prison population. The infrastructure was at a standstill, as the economic situation did not allow for the building of new prisons.

When one expert asked how Cameroon could consider itself a democracy when it detained men, women and children together, the representative of Cameroon stated that the existing prisons must be improved, including providing separate facilities for women and children.

The delegation of Cameroon also acknowledged incidents of torture, death and arbitrary detention, in response to queries about what machinery existed that ensured an independent investigation of such incidents. The representative of Cameroon pointed out that in the past, citizens had been reluctant to come forward with complaints of violations, but there had been an "explosion" of some 2,000 such claims since the creation of the National Committee for Human Rights and Freedoms.

The representative of Cameroon went on to say that the reported incident of the imprisonment of the Chairman of the National Committee for Human Rights and Freedoms had to be seen in its proper perspective. He suggested that the incident had been misreported. The arrest had been a mistake, carried out by a single policeman. It had not been ordered by any higher authority.

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One expert stressed that he had heard no satisfactory reply to the question about restraints to torture. A number of important people had suffered from torture, including leaders of opposition groups, and when such things happened, it appeared that those in power did not feel any public accountability. Other experts suggested that a change of climate regarding human rights at the highest levels of Government, accompanied by training for the police, would help to change the pattern of abuses.

Other concerns were put forth this afternoon on the independence of the judiciary. One expert suggested that certain ways to ensure judicial independence included the means of appointment, the security of tenure, immunity from process and constancy of remuneration.

To questions raised about the categories of crime involving the death penalty, the representative of Cameroon said the use of the death penalty in his country applied to murder with premeditation, of which there had been a significant number. He pointed out that there had been no executions since his country's initial report to the Committee. In 1990, there had been a review of crimes punishable by death, but it was still too soon to determine if the categories of those crimes should be reduced.

The Committee will conclude its examination of the second periodic report of Cameroon tomorrow at 10 a.m.

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Committee Work Programme

The Human Rights Committee met this afternoon to continue its examination of the second periodic report of Cameroon on that country's implementation of civil and political rights (document CCPR/C/63/Add.1). The delegation from Cameroon will be answering questions posed by Committee experts, who serve in their own capacity, on the constitutional and legal framework within which the International Covenant on Civil and Political Rights is implemented, as well as questions on state of emergency, non-discrimination, and protection of the family. The delegation will also reply to written questions on right to life, liberty and security of person, treatment of prisoners and right to a fair trial. (For details of Cameroon's report, see Press Release HR/CT/328 of 30 March.)

Response to Questions

PASCAL BILOA TANG (Cameroon) said his delegation at the morning meeting had spoken about the 1992 proclaimed state of emergency in Cameroon. Regarding the question of notification of the state of emergency and derogations from the Convention, he said he had asked for a hearing with the Secretary-General following the declaration. He had also requested a meeting with the United Nations Development Programme (UNDP).

In response to concerns expressed about equal gender opportunity in public office, he referred to several women who had served in the foreign service. There was equal opportunity for women in Cameroon. During the period covered by the first periodic report, Cameroon had not yet entered the cycle of democratization. Cameroon had now entered that cycle.

PASCALINE BOUM, a representative of Cameroon, said the Constitution guaranteed equality, but in practice that equality had not existed in the recent past. A Ministry for the Status of Women had been merged with the Ministry of Social Affairs to become the Ministry of Women and Social Affairs in her country. It was not an attempt to treat women like disabled people or children. The merging of the ministries was intended to deal with the people who were the most vulnerable.

She went on to say that the Ministry had contributed to the ratification of the Convention on the Elimination of All Forms of Discrimination against Women. It also played an important role in changing the practice regarding women obtaining permission for a visa. Women also had important posts in the Government. There had been, at one time, five women Ministers, while at present there were two. There were women who were directors of state companies and members of the Supreme Court. Women were also prosecutors and Deans of universities, as well.

TOUSSAINT ZIBI NSOE, a Magistrate and representative of Cameroon, said his country had become independent in 1961 with a Federal Constitution. In 1969, following a referendum, the country became a single state. The Constitution of 1972, which had been amended over the years, was the instrument in force.

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He said that in 1990, the need for change was recognized and a number of reforms were instituted. Following a presidential announcement that there would be a constitutional review, authorities began working on fundamental changes. Meetings had been held and a draft drawn up. He could not predict when the President would submit a draft to the Assembly or to a referendum of the people, but there would be an important change in the legal structure.

He went on to say that the executive was made up of a President and a Prime Minister. The legislature was a single chamber. Following the 1992 elections, three parties considered to be the opposition had entered in the Assembly and the former single party lacked an absolute majority. The Supreme Court was competent in administrative matters and judged the constitutionality of laws.

JOSEPH EVA, representative of Cameroon, outlining the development of the multi-party system, said liberalization and democratization were launched following the 1985 Congress. In 1987, within the single party, several lists of candidates were considered and different trends of thought emerged -- progressive, conservative and reform. The advent of a multi-party system was announced at the Congress of 1990. In December of that year, a series of laws on freedoms and on the multi-party system was promulgated.

There was a special text on the freedom of association, a concept that applied to political parties, he continued. Prior to 1990, 301 associations had been recognized. The law distinguished two types of regimes -- those of "declaration" and those of "authorization". Currently, all that was necessary was a declaration to establish an association and present an application to the prefect. Silence by the prefect meant that they had been accepted. Between January 1991 and January 1993, 273 simple associations had been formed, of which more than 20 were human rights associations. A tribe could establish a cultural association by making a declaration to the prefect.

The system of authorized associations included religious associations and foreign associations, he said. Generally speaking, they were recognized without a problem. Political parties were associations and had to be committed to accepting the aims of the republic, but there were safeguards to prevent the administrative authorities from having exorbitant power over the formation of political parties. Any rejection of a political party must be accompanied by a reason. The refusal of authorization could be appealed before an administrative court.

At present there were 92 legal political parties and at least three more applications for authorization, he said. The laws for political parties allowed them to acquire property that was necessary for their activities, collect dues, open bank accounts, establish newspapers and training institutes, hold meetings and organize demonstrations within the law. Political parties had access to the media and could air their views in public. The establishment of political parties in the initial stage had given rise to grave social tensions, because at the beginning of democratization people expected a great deal.

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Mr. ZIBI NSOE, responding to a question about the conflict of domestic law with the Covenant, said that such a thing did not occur. Laws in conflict were considered obsolete and were no longer applied. Cameroon also recognized that it had much more work to do to publicize the Covenant.

Mr. EVA said that there were three electoral laws -- one on election of the President, one on the election of the National Assembly and one for local or municipal elections. Those three laws covered joint provisions in certain fields, in particular who could be elected and who could vote. The voter had to be 20 years of age, a Cameroonian national and not have a prison record. To be a candidate one had to be of age, a national and not have a prison record. Each party could present a candidate of its choice. Complete freedom was given to each party, as long as each candidate fulfilled the requirements of age, morality, residence and so forth. To be an elector, one had to be part of an electoral group.

He went on to say that elections of the President were done by a simple majority. Voting for the legislature was done in a mixed system of voting. The list of the candidate of each party that obtained an absolute majority was declared the winner. If no list got an absolute majority, there was a State intervention for a proportional representation. The list that received a relative majority got half the seats in the Assembly. The rest of the seats were distributed proportionately, according to the number of votes received. The list obtaining a relative majority no longer participated in the decisions of the filling of the remaining seats. In municipal elections, the list receiving the absolute majority received half the seats. He said there were control commissions for the three elections, which declared the results of the voting.

To questions about the membership of the National Committee, he replied that members of the Committee worked only part-time and free of charge. The Committee had its own rules of procedure and could set up its own working groups. It had legal autonomy. Any citizen could bring cases before the Committee. More than 2,000 requests had come to the Committee in 1993. The Committee had gone to the competent authorities to solve the problems. The Committee had its own budget subsidized by the State and by donations. It organized seminars and training programmes. It was a new Committee and was attempting to make citizens aware of their fundamental rights and freedoms. The process was just beginning and was far from complete. Citizens had previously felt constrained in making complaints, but recently there had been an explosion of claims, which accounted for many of the difficulties.

Referring to the state of emergency, he said that when such a state was declared over the entire territory, the administrative authorities were authorized to adopt certain measures on arrest and detention. They could restrict movement and confiscate weapons. They could also prohibit meetings that might lead to public disorder. Police could arrest people considered threats to public safety. After 15 days, the detainee could claim to be heard by the appropriate Minister. The Minister could organize or control the press and forbid certain publications or broadcasts.

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The measures taken in the state of emergency were communicated to the National Committee, as happened in the situation in the northern province. The state of emergency in 1992 was an application of the legislation in that field. In the northwest there were serious disorders that were considered a threat to the security of the State.

He said the arrest of the Chairman of the National Committee for Human Rights and Freedoms had to be seen in its proper proportion. He did not wish to make any comments about Amnesty International, which had reported the incident. He said the actual incident involved the Chairman of the National Committee receiving notice about a certain number of events that had taken place. He had learned about the arrest of certain citizens and had gone to the police station accompanied by the public prosecutor. The policeman responsible for the arrests had refused to talk to the Chairman and had subsequently imprisoned the Chairman and the public prosecutor. Upon consulting with the proper officials, the policeman was instructed to release the Chairman and the prosecutor immediately. It was a mistake by the policeman. The authorities had never ordered him to imprison the Chairman.

Responding to questions on the right to life, liberty and security of person, treatment of prisoners and other persons deprived of their liberty and the right to a fair trial, Mr. ZIBI NSOE of Cameroon, said the use of the death penalty in his country applied to murder with premeditation, of which there was a significant occurrence. He pointed out that there had been no executions since the initial report to the Committee. In 1990, there had been a review of the text that restricted crimes punishable by death. It was still too soon to determine if the categories of those crimes should be reduced.

He said medical experimentation on a person without their consent was considered a criminal act. Regarding detention, he said that when the public prosecutor was informed that a detention was illegal, he had to act immediately. Any person could put their case before the public prosecutor or an administrative committee. An inquiry would be made and the person released, if a violation existed.

The demographic explosion and the rural exodus had brought about an increase in the number of crimes and a growth in the prison population, he said. The infrastructure was at a standstill, as the economic situation did not allow for new prisons. The existing prisons must be improved, including providing separate facilities for women and children. If detention was found to be illegal, the aggrieved person would be compensated. If the request was unanswered or the compensation considered insufficient, the complainant could bring the case before the judiciary. Judges obeyed the law and their consciences. If the defendant believed there was a lack of impartiality, he could ask to go before another judge.

Mr. EVA of Cameroon, said that a law promulgated in 1990 for the maintenance of order regulated the use of weapons by police. Weapons could not be employed just to maintain public order, although tear gas and clubs

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could be used. Weapons could be used when the police were threatened with violence or firearms and they could defend themselves in no other way. Anyone caught violating those restrictions would be condemned and sentenced.

In the case of the lawyer who was assassinated, he said the accused police officer was declared guilty of murder and condemned to life in prison, with a fine of 5 million francs. In another case, a lieutenant and a corporal found guilty of the arbitrary execution of five persons were condemned and sentenced to execution. The accused appealed and the case was now in the court of public appeals. Such cases and others like them proved that there were abuses and that they were punished. Police were made aware of the laws against such acts.

Questions from the experts

LAUREL FRANCIS, expert from Jamaica, said the establishment of the National Committee was a very positive element in the report. The report needed to reflect the interplay between policy implementation and its results. The fact that violations of human rights had gone unpunished should not mean apathy or administrative indifference. The National Committee should perhaps embark on a massive public relations campaign to inform the public of their rights. The shortage of judges prevented the prompt trial of accused persons. Cameroon should perhaps consider the use of retired judges to help resolve the shortage.

ELIZABETH EVATT, expert from Australia, said she was especially interested in measures taken to bring to trial members of the police force that had engaged in extra-judicial killing and torture. There was an obvious need for training for the police and security forces. There also needed to be a climate of rejection of any policy of human rights abuse at the highest levels of the Government.

Incidents of torture, death and arbitrary detention had been reported by Amnesty International, she continued. What machinery existed that ensured an independent and impartial investigation of each incident? she asked. Could the National Committee have a role in that investigation? Why had the National Committee's report on torture not been made public? Prevention through training and leadership was obviously the important element in solving the problem. She asked under what circumstance a judge could be removed from office.

ANDREAS V. MAVROMMATIS, expert from Cameroon, said the report lacked specificity in a number of areas. He requested a list of offenses punishable with the death penalty. Acts of violence against a government employee was too general a category to consider for the death penalty. Aggravated theft and disposal of toxic wastes were also unsuitable categories. He asked what was being done in respect to various reported incidents of arbitrary detention and death.

He went on to say there were certain ways to ensure judicial independence, among them the means of appointment, the security of tenure,

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immunity from process and constancy of remuneration. The law that threatened to imprison judges for not making a judgement was a threat to such independence. He inquired about specifics of the system of legal aid. How was such a system funded? he asked.

KURT HERNDL, expert of Austria, referred to the right to life under article 6 of the Covenant, which also stipulated that "nothing in the article shall be invoked to delay or prevent the abolition of capital punishment". It had been clearly stated that the death sentence had come under severe criticism, he said. It would be appropriate to debate and ascertain whether there could be a further restrictive interpretation and revision of the crimes to which the death penalty was applicable, if it was not to be abolished.

He had heard no satisfactory reply to the question about restraints to torture, he said. There had been no reference to practical problems that had arisen in that field. A number of important people had suffered from torture, including leaders of opposition groups. He did not expect exact statistics but there should be a report on the situation.

BIRAME NDIAYE, expert from Senegal, said the Committee had the names of several people who had undergone torture. Torture and illegal detention alarmed the international community. There could be no democracy when those kinds of practices were carried out. When such things happened, it would appear that those in power did not feel that they were publicly accountable.

He said that the Government could not incarcerate men and women in the same place. How could Cameroon consider itself a democracy when it detained men, women and children together? he asked. The birth of the State of Cameroon had been difficult and perhaps that had given rise to practices and rules that were contrary to the Covenant. Now that the situation had changed, those measures were no longer needed. How could the military courts be expected to judge civilians simply because the crimes occurred in a part of the country where there was a state of emergency? he asked. A state of emergency was not a state of siege and powers were not transferred to the military.

ROSALYN HIGGINS, expert from the United Kingdom, said the admission by the delegation that there had been torture and abuse was helpful. She observed that it was not good to have new election procedures if they were controlled by one party. The harassment and intimidation of the press also, obviously, did not serve the process well. Journalists had been arrested immediately after criticisms of the President and there had been arbitrary arrests and maltreatment of political opponents. There had even been deaths from beatings and extra-judicial executions, including some at peaceful demonstrations. In an incident of 25 March 1993, deaths of peaceful demonstrators had occurred at the hands of military forces. Had there been any investigations? she asked. There had also been reprisal killings by Cameroon soldiers in Arab villages in the far northern part of the country. She asked if sentences imposed against army personnel had actually been put into effect.

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BERTIL WENNERGREN, expert from Sweden, inquired about administrative jurisdiction. There had been an explosion of the use of administrative remedies. Many cases had been settled at the administrative level. How had that administrative level functioned and how much had been taken from the French legal system? he asked. Was there an administrative division in the Supreme Court and was that a part of the "explosion" of administrative remedies? Were just legalities examined in the cases or was the whole case being considered?

MARCO TULLIO BRUNI CELLI, expert from Venezuela, said that the report stated that due to problems of economic development there were a great number of juvenile offenders in the prison system. Investment was needed, but good will could also help solve the problem. Were there any plans by the Government to address the situation? he asked. What criteria would judges use to conduct a trial in camera? It should only be used in exceptional cases. Who appointed the judges and what was the criteria for the appointment? Was there special training on human rights for the judges?

Mr. NDIAYE, expert from Senegal, inquired about the subject of detention beyond 24 hours. What was the distinction that was made in administrative custody that was renewable for 15 days? he asked. Why was there such a different system and what sort of law applied in that system of administrative custody?

Mr. EVA, representative of Cameroon, responding to questions about administrative custody, said laws were made to be applied to specific situations. There was a crime wave in Cameroon that had recently spread to the countryside. A new phenomenon was the "road cutters", armed bands who robbed merchants travelling on the highway of their goods and money. Administrative custody allowed officials to carry out thorough investigations before the accused were brought to court. By that act, the administrative authorities could take custody of the accused for a 15-day period, which could be extended. It was effective and allowed the authorities to tackle the phenomenon of "grand banditry" which presented a real scourge in the cities and in the north of the country.

He said Cameroon was caught between the English and the French systems of law. According to the French system, there was a difference between administrative and judicial jurisdiction. The Government had tried to set up an administrative chamber under the Supreme Court to deal with administrative disputes. Appeals had to first be addressed to the author of the act. If there was no response or a negative response, the complainant could then put the appeal before the administrative chamber. The plenary chamber of the court was the last form of appeal. Judges who had knowledge of the appeal from the administrative chamber could not sit in the plenary chamber. He stressed that, although this avenue had been available to Cameroon's citizens before 1990, they had been afraid to use it. Now that they felt free, they were not afraid to use the process and many appeals were being filed.

He explained that to become a judge, an individual must attend university and the National School of Administration and Magistrates, after which they

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must sit for an exam. If they passed the test and satisfied other criteria, they could become a magistrate. The President decided whether magistrates advanced in their career. Magistrates who met the criteria for advancement were chosen by the President, who was assisted by the Supreme Council. The Council was composed of deputies and magistrates and people appointed by the President. There were several progressive grades, which required at least 20 years to pass through.

He said people in Cameroon thought the system should be improved and there were recommendations for changes that were even more demanding. There were problems in training, recycling changes and the working conditions of the magistrates. He hoped that, with the help of friendly countries, the delegation would be able to report improvements in its next report.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1308th Meeting (AM)

HR/CT/330
31 March 1994

CAMEROON CLAIMS SIGNIFICANT PROGRESS IN HUMAN RIGHTS SINCE 1990 REFORMS,
AS HUMAN RIGHTS COMMITTEE COMPLETES EXAMINATION OF SECOND REPORT

Experts Express Concern About Freedom of Press, Religion

Representatives of Cameroon told the Human Rights Committee this morning that, despite the Committee's concerns that certain rights were not fully recognized, there had been significant democratization and liberalization of society in Cameroon since the enactment of reforms in 1990.

As the Committee completed its examination of Cameroon's second periodic report on implementation of the provisions of the International Covenant on Civil and Political Rights, experts emphasized that limitations on the press, particularly in the form of prior censorship, were incompatible with the Covenant. It appeared that if a journalist criticized the Government his work could be censored.

The representative of Cameroon explained that while judicial censorship did not exist, journalists must observe laws governing slander, public order and morality. If a journalist broke those laws, he was subject to arrest.

Experts raised a number of questions about freedom of religion in Cameroon. Particular note was taken of official actions against Jehovah's Witnesses who were accused of "inciting to revolt". The representative of Cameroon, while agreeing that Jehovah's Witnesses were pacifists, said that their refusal to honour the flag and the national anthem and their attempts to convert Cameroonian children against parental consent represented a threat to the country's policy of national integration.

The representative of Cameroon rebutted criticism concerning the transparency of the 1992 Presidential elections, stating that there were impartial institutional checks throughout the electoral process. Claims of electoral fraud had been used to justify the violence that erupted in the northern province following those elections. He stated that the initial boycott of the national assembly elections by an opposition party had created difficulties in meeting subsequent registration deadlines.

(page 1a follows)

Experts expressed reservations about the prior declaration requirement for forming a public association whereby the association must demonstrate that its objectives were not contrary to the constitution, morality or national unity. In response to a question about how that law affected Amnesty International, the representative of Cameroon said it would be allowed to operate in Cameroon if it played the game by the rules.

Concluding the Committee's examination, its Chairman, Nisuke Ando, expert from Japan, recalled the statement of Cameroon that the colonial legacy often prevented full implementation of the Covenant during the transitional period to a multi-party democracy. He cautioned that, although the past presented difficulties, it did not exempt a country from observing the Covenant.

The Committee will meet in closed session at 3 p.m. today to discuss communications from individuals claiming to be victims of violations of any of the rights proclaimed in the Covenant.

(page 2 follows)

Committee Work Programme

The Human Rights Committee met this morning to continue its examination of the second periodic report of Cameroon on that country's implementation of the International Covenant on Civil and Political Rights (CCPR/C/63/Add.1). The delegation from Cameroon will conclude its responses to oral questions by Committee members on the right to life, treatment of prisoners and right to a fair trial. Members will also raise questions on the implementation of the articles in the Covenant on right to privacy, freedom of religion and expression, right to take part in the conduct of public affairs and rights of minorities. (For details of Cameroon's report, see Press Release HR/CT/328 of 30 March.)

Response to questions

TOUSSAINT ZIBI NSOE, Magistrate and representative of Cameroon, resuming his delegation's response to questions posed by the Committee on the right to life, liberty and security of persons, said that sentences were handed down publicly. Secrecy could be ordered if public debate was considered to be dangerous or if it was deemed to be harmful to public morals. The decisions themselves were always adopted behind closed doors. Offenses that might warrant the death penalty included premeditated murder, aggravated robbery and traffic in toxic wastes and treason.

Judicial assistance was provided in the social area, he said. The court appointed an official to assist the person in seeking assistance during proceedings that involve the handing down of a decision. Such assistance was provided only upon request to a designated commission, which was presided over by a judge. If the commission decided that assistance was warranted, a lawyer was appointed to the defendant.

Regarding the right to life, he said under the penal code anyone who practised abortion was punished by prison or fines, which applied to both the practitioner and consenting mother. The mother, who was an accomplice to the death of her child, was subject to a prison sentence. The abortion laws were not applicable to situations in which abortion was necessary to save the life of the mother or to end a pregnancy resulting from rape.

PASCAL BILOA TANG, representative of Cameroon, referring to demonstrations where there had been allegations of abuse of certain freedoms, said that if demonstrations were prohibited in a certain place, it was better not to organize demonstrations in that place. What had happened, as reported, was an isolated instance and he assured the Committee that it would not happen again.

JOSEPH EVA, representative of Cameroon, said that from 1990 onwards it had not been possible to have a single party. A number of commissions that had been established to enhance the electoral process had representatives of the administration and of the political parties. The review of the electoral lists was done by a joint committee. It could not be said that a single party controlled the elections, he said.

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ANDREAS MAVROMMATIS, expert from Cyprus, asked for clarification on his previous question of whether judges would indeed be punished for delaying judgement in a case. How was that consistent with the independence of the judiciary?

Mr. ZIBI NSOE, representative of Cameroon, replied that there was punishment for a refusal by a judge to render a decision. The moment the decision was rendered a defendant had a right to appeal. It was only a question of actually handing down a decision, not the nature of the decision, that involved the penalty.

MAGNUS EKOUYOU, Secretary for Foreign Affairs of the Ministry for Foreign Affairs of Cameroon, responded to written questions on the right to privacy, freedom of religion, opinion and expression, the right to take part in the conduct of public affairs and the rights of persons belonging to minorities. He said every person had the right to privacy of the home and private correspondence. The home could only be entered and correspondence examined on judicial order. He knew of no instance of the violation of that right. The courts, since the laws written in 1990, had passed many sentences on slander.

He went on to say that the preamble of the Constitution guaranteed protection of the rights of religion or belief, subject to the fact that the public order be respected. A case of the Jehovah's Witnesses involved a situation where they did not respect the public order. They had incited people to revolt. In 1990, a decree by the President gave Jehovah's Witnesses the right to practice their religion and there was a report attesting to that fact. There had been many recent public demonstrations in the capital that were covered by the media. Religious practices were not limited in any way.

Regarding the freedom of the press, he said that the freedom of social communication was guaranteed, particularly books or any printed matter. Anything that was printed had to carry the name and address of the printing firm. Every press organ had certain obligations. There had to be a complete list of the names of collaborators in any press publication. The authorities could suspend the right of publication if the proper conditions were not met. The foreign press was subject to the press laws of the country. No enterprise could publish more than three press organs. Those restrictions did not apply to the press in the public sector that dealt with public services, he said.

In Cameroon, he continued, journalists were required to handle their work with responsibility. Protection of sources of information was guaranteed. Unless a public prosecutor was conducting inquiries, no search could be conducted of a publisher. If there was a violation of public order, then a search could take place, provided the sources were protected. He acknowledged that journalists had been arrested. Politicians had to respect the laws; so did journalists. For example, the press organ had to deposit copies of the publication with the public prosecutor, the national archives and in an administrative deposit. If certain articles violated public order or good morals, censorship could be employed, although the newspaper was free to appeal the censorship. The President of the Republic had given instructions to lessen censorship and to encourage legal, rather than administrative,

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action in the case of violations. The President wanted the administrative authorities to have no further power over the press. As a result, there was currently almost no censorship.

When the press laws were violated by journalists or any other citizens, the machinery to deal with such violations was set into motion, he stated. Arrests had been made because persons had not respected the laws. Several of the trials had, indeed, led to sentences. At present, no journalist was detained in Cameroon, pending the outcome of the appeals. The Government did not attack journalists nor did it take arbitrary measures. The Government's intention was to liberalize the country, within the context of the law.

Referring to laws on minorities, he said that Cameroon had two official languages -- French and English. Because of the country's history, the majority language was French. There really wasn't a linguistic minority in Cameroon. Education was in English or French. Most citizens were bilingual. There were more than 300 ethnic groups, each with its own language, culture and religion. In Cameroon it was not possible to speak of a majority ethnic group. The groups overlapped. The people of Cameroon first had a tribal instinct or identity, rather than an English or French identity. The only minority was the pygmies, who inhabited the equatorial forests. The Government had recognized their rights for quite some time. They lived in their own lands -- not on reservations -- and had their own language and religion. The nomad population had become more sedentary. The Government did not want the pygmy to be excluded from society. Pygmies had held public positions and attended the universities.

Questions from experts

FAUSTO POCAR, expert from Italy, said that during the first report he had asked many questions about compliance with articles 21 and 22 of the Covenant, which concern freedom of association and unions. Although some answers were provided in the report, he would like more information. The report said that public meetings were held freely, although there must be a prior statement to public authorities. It also stated that some demonstrations in public places might be forbidden. He asked for further information on that point.

Regarding the freedom of association, he recalled that the report had stated that all simple associations, with the exception of religious and foreign associations, needed only to make a declaration to come into being. He would like further information on the regulations regarding religious associations. Would any association that was essentially religious be banned if it became involved in debates concerning national integration? he asked.

What was the present status of trade union freedom? he asked. How did the State treat unions now? The Committee had received a report that there were problems in the area of trade union freedoms and that people who belonged to trade unions were intimidated. He said he would also appreciate more information about compliance with article 27 of the Covenant, which concerns minorities. He wondered how the majority rules of democracy could lead to a situation where certain ethnic groups would receive advantages. He requested

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clarification on the statement that ethnic minorities were at the centre of the national integration policy, which was aimed at preventing a too rigid application of the majority rules of democracy.

BIRAME NDIAYE, expert from Senegal, said that the report's reference to majority rules of democracy was accurate. In the choice of ministers and deputies in Cameroon, an effort was made to ensure that everyone was represented. He would like to know how many of the national languages were officially accepted. Were the languages used to make the provisions of the Covenant known throughout the country?

The law regarding associations for foreigners was strict and perhaps understandable, but why was it so strict for religious associations? he asked.

MARCO TULLIO BRUNO CELLI, representative of Venezuela, said the first elections were protested by the principle parties, which meant that the new political developments had not been fully accepted. There were electoral laws, but who administered the elections? he asked. Who was in charge? To whom were the candidates presented? Who monitored for irregularities? Was there a group to which one could appeal if they thought that something had gone wrong? Were requests for a recount acknowledged by a court?

He said the Permanent Representative could not guarantee that an official of the State would never again be guilty of torture or crimes against human rights. Such things happened all over, even in developed countries. While it could not be said that such things would never again happen, the State should be able to say that it would not allow such things to happen again with impunity and that there would be an investigation and punishment.

WALEED SADI, expert from Jordan, asked how the judiciary could determine if a press report was objective or not. Also, the report referred to blanket freedoms regarding religion, but if they were not articulated in greater detail, it was not possible to say that there was religious freedom or that people would not be harassed because of religion.

CHRISTINE CHANET, expert from France, said that religions seemed to be treated a little like political parties in Cameroon and were required to make a declaration. The ability to express ones religious beliefs thus would be subject to restrictions. The freedom of religion should be absolute. Making religions similar to political parties was a little hard for the Committee to swallow.

She said the police and the army had rigorously interfered with the press. The papers and media were closely monitored. How could the courts pass judgement on the contents of articles in the press? she asked. When one considers the system of censorship, detention and maltreatment of journalists in Cameroon, it sounded as if the press was not being allowed to speak out. She noted that the report said that all citizens were now free to return to Cameroon. Had there been a ban in effect before the law changed in 1991?

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KURT HERNDL, expert from Austria, asked about ethnic minorities. The first periodic report had spoken of national unification and common goals that were given priority. Reference was also made to the pygmies in the first report. It would be more appropriate to talk in the second report about measures adopted by the Government that would allow minorities to enjoy their fundamental freedoms and rights. The Committee had previously expressed concerns on the rights of minorities, as contained in article 27. He hoped that the details on the implementation of those rights would be made available. Was there any legal regime in place to protect the rights of the minorities? he asked.

ROSALYN HIGGINS, expert from the United Kingdom, expressed surprise to hear that the Government had based its freedom of religion on the Universal Declaration, which said little about religion. She referred to the statement by the delegation that the Jehovah's Witnesses had incited revolt. She knew that religious groups did proselytize, but as pacifists they did not incite revolution.

Addressing the position of journalists, she said the laws in force on journalists should be compatible with the Covenant. Prior submission for approval of articles for publication was incompatible with article 19 of the Covenant. The restraint on publication based on a threat to public order could justify censorship of anything critical of the Government.

Freedom of association was allowed through declaration or authorization, she continued. Why were any forms of declaration or authorization needed? she asked. Any group should be free to associate without any prior notice. Only if they subsequently violated the laws, could there be legal action against them. She inquired about the right to strike for teachers. If there was a prohibition against strikes by teachers, was the practice then to arrest the teachers and hold them without charge, instead of merely prohibiting the strike?

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, said he was convinced that religious problems really didn't exist in Cameroon. He expressed concern, however, about the reported revolt against the State supposedly carried on by the Jehovah's Witnesses, who were pacifists. He also expressed concern about the laws governing the press and the protection of sources of information. Did the public order provision prevent items from being published? he asked. He was suspicious of the idea of the objectivity and neutrality of the press. He was worried that the Committee had been told that censorship was almost non-existent in Cameroon. What did the "almost" mean?

OMRAN EL-SHAFFI, expert from Egypt, said difficulty in making the transition a multi-party system and to freedom of the press was understandable. The amendments to existing laws on freedom of the press had created new political offences and increased punishment for criticism of government institutions. Publishing false information about public institutions was a punishable offence. The amendments had strengthened government powers to censor newspapers prior to publication. How could it be

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justified to limit the new freedoms of the press during the transition period? he asked. He agreed with the analysis that only the pygmies could be spoken of as a minority, but the Committee needed more explanation on the two major linguistic groups.

BERTIL WENNERGREN, expert from Sweden, said the report states there was just one restriction on association. The association must not have an objective that went against the Constitution, morality or national unity. The restriction was alarming, because it was vague and permitted interpretations that could seriously limit the right to association. How was that criteria applied and interpreted? he asked. Could a non-governmental organization, like Amnesty International, establish a national subdivision in Cameroon? Could such an organization be viewed as a threat to national unity? Would access be granted to such an organization to information like the periodic report?

ELIZABETH EVAAT, expert from Australia, said she had not heard an answer to the question about the custom of genital mutilation. Cameroon had reported that the practice still existed and that there was a national programme to educate the people. How extensive was the practice and how effective was the campaign against it? she asked. Was there a commitment on the part of the Government to end the practice?

RAJSOOMER LALLAH, expert of Mauritius, said he joined other members of the Committee in their concern about measures that affected the freedom of the press. The provisions of the Covenant concerned not just journalists, but the right of people to receive information.

Response by Cameroon

MAGNUS EKOUMOU, representative of Cameroon, said that there was some misunderstanding about his statement concerning the press. The law he referred to related to the right of individuals to submit complaints of press slander to the Court. It was not a question of the courts becoming censors. Democracy in Cameroon was at an early age. He hoped that it would grow and that the people of Cameroon would be able to live in freedom. His delegation would explain the concerns of the Committee to the Government and those concerns would be taken into account. He hoped that when they presented the next report to the Committee, they would be able to say that laws that contravened the Covenant had been amended.

With regard to the Jehovah's Witnesses and religious freedom in general, he said that countries with monolithic religions considered smaller religious groups as sects. In Cameroon, Jehovah's Witnesses were regarded as a sect, but they enjoyed religious freedom. When he had studied in Paris, the French Government had shown concern about what it considered sects there and wanted to know about their intentions. The Government did not intend to prohibit religions, but in some cases parents were expressing grave concern that certain sects were trying to convert their children and alienate them against their parents. Moreover, Jehovah's Witnesses taught their followers not to bow to the flag or to sing the national anthem. Such actions were

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unacceptable in a country that was trying to foster national integration. When a religion did not want to respect the law, the Government could take measures against it. Because of its actions, Jehovah's Witnesses had been banned.

PASCAL BILKOA TANG, representative of Cameroon, said pluralism in the media existed. Regarding freedom of movement, he said that since liberalization, exit or entry visas were no longer required for citizens, as had been the case in the past. Cameroon was a microcosm of Africa and there were several languages at the provincial levels. Also, he had great respect for Amnesty International, but they did not have a monopoly on truth.

Concerning the incidence of female circumcision, he said the situation was not as serious or as intense as in other countries. What about male circumcision, which also occurred? he asked. The women of Cameroon were very active and could make sure that their rights were protected.

Mr. EVA, representative of Cameroon, said if the Committee could see what the press was like in Cameroon, it would put an end to all the discussion regarding freedom of the press. If the Committee could see what was written in the press against the country, it would know that the press in Cameroon had been liberalized. Journalists were free to say what they wanted and they did so. There were no journalists in Cameroon prisons at present and the courts did not exercise censorship. The courts did repress violations of the national laws by the press. The court could not order a journalist to withdraw an article.

With regard to associations, he said democratization and liberalization was clear cut. Cameroon was a fragile society and did not have hundreds of years of democracy behind it. It did have specific problems. When there were religions that taught principles that ran counter to morality, the Government was free to question it. It could not allow them to perpetrate disorder when parents complained daily that their children were being subverted. The Jehovah's Witnesses might be pacifist, but they caused many problems in the country. The Government had to handle such contradictions and protect the society.

He said trade union freedoms were recognized and six trade unions were actually working. Following the devaluation of the franc, all the unions were represented in the negotiations. It was no longer possible to recognize only a single union. The law on associations provided that trade unions be subject to a special text. He stressed that it was possible for trade union leaders to commit violations of the law outside of their union responsibility. Should they go unpunished because they were trade union leaders or should common law be applied? he asked. There was no harassment against trade union leaders, as such, despite what Amnesty International said.

He said certain kinds of information was not open to journalists, as was true in other countries. Nevertheless, journalists in Cameroon wrote what

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they pleased and were not harassed. Except for classified information, they were given information when requested. If they wrote something that was against the law, they were arrested.

Mr. NSOE, representative of Cameroon, said United States Congressmen had requested information on the 1992 elections in Cameroon. They had been informed that every candidate designated a staff person to be present in each voting district. When the voting was over, each candidate could appoint a ballot counter. Moreover, in each electoral district, the individual parties could appoint three representatives that had access to each voting office.

When all the votes were counted, the records were officially drawn up in the presence of the representatives of the candidates, he continued. The records left the office signed by the representatives of each candidate. No candidate could say that his representative had not been allowed to get into a voting office. Certain members of the Congress had suggested that there were limitations on who could get on the list of candidates, but certain parties had instructed their supporters to boycott the election and not register. When they realized their mistake, there were only a few days left to register. They were not denied the right to register.

The state of emergency was declared following acts of arson, robbery and rioting. When rumors surfaced that the parents of the victims of the unrest were going to burn down the house of the candidate that had lost, authorities decided to encircle the house without his knowledge. There were six candidates in the election. The first received 39.5 per cent of the vote, the second obtained 35.9 per cent of the vote and the third got 19.2 per cent. That could not be described as undemocratic.

Concluding Comments

Mr. NDIAYE, expert from Senegal, said the oral replies by the delegation had supplied very valuable supplementary information. The Committee was not claiming that certain people, such as journalists, were above the law. Every person should receive equal protection under the law. If trade unionists violated the law, they should be subject to that law. But every person had certain rights under the Covenant, regardless of the law.

He said the overcrowding of the prison could be addressed by other approaches, in spite of economic concerns. Imprisoning women and children in the same places with men only encouraged more crime. He said that the explanation of administrative detention was clear. In his own country there was a problem of banditry. The extension of custody, however, did not seem to resolve the problem. Some other solution needed to be found. Also, further efforts should be made to liberalize the press. Censorship on its own had never solved a thing. Legislation should be brought into line with the Covenant.

Ms. HIGGINS, expert from the United Kingdom, said that the Committee was seeing a commitment to human rights on the part of Cameroon. The problems had been rather frankly acknowledged. But acknowledgement by itself was not

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enough, nor was it sufficient to suppose that pluralism alone would cure everything. During the process of transition, everything should be weighed against the Covenant. Checks needed to be put into place. For example, the law on freedom of expression would need changing and it would be necessary to ensure the impartiality of elections. Training of troops and police in human rights would be necessary and punishment should be handed out to those who violated those rights.

Mr. HERNDL, expert from Austria, said that the dialogue with Cameroon was just beginning. It was a country in the process of restructuring the entire society. At the current stage, the dialogue was of major importance. Cameroon would need to adjust certain aspects of its legal system. When those changes were made, the provisions in the Covenant concerning right to life and the freedom from torture would have to be taken into account. The next report would chart the progress made in the path to true democracy.

JULIO PRADO VALLEJO, expert from Ecuador, expressed concern about the lack of decision-making powers of the National Committee on Human Rights and Freedoms. The report recognized the political culture that existed allowed the violation of human rights. Some of the violations in the penal area had to be punished. There was an obvious lack of programmes teaching human rights, particularly in the universities and in the police. Gender equality had to be more firmly addressed and programmes carried out. The issue of arbitrary detention for reasons of security of the State was not compatible with the Covenant. The limitations on the Jehovah's Witnesses must be removed.

Ms. CHANET, expert from France, said the establishment of the National Committee was a positive aspect, in spite of its problems. The multi-party system was also an encouraging step. The information on the right of minorities was also positive. The right to life, freedom from torture or mistreatment, illegal and arbitrary detention and limitations on freedom of association and the press were areas of concern that must be addressed. The Covenant must be disseminated by appropriate means so all people could know about their rights, wherever they lived and whatever part of the society they represented. The penal code also needed revision and there were too many offences punishable by the death penalty. Instances of illegal detention must be investigated. The family code should be reformed. The laws of 1990 for the press also needed revision.

Mr. WENNERGREN, expert from Sweden, said Cameroon had made great progress since the last periodic report in the area of implementation of the Covenant. Democracy and compliance with human rights did take a certain amount of time. Some things needed particular attention, however. There was a kind of patriarchal approach to freedom of expression and freedom of assembly. It should be possible to make progress in those areas.

Mrs. EVATT, expert from Australia, said there was a need for the Government and security forces to fully understand the rule of law. Programmes must be developed to teach that understanding. Every allegation of extra-judicial killing, illegal or arbitrary detention, and torture must be investigated, punished and publicized. Genital mutilation in women was a

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form of torture. She was disappointed in the lack of full commitment by the delegation, in their response to the questions, to completely eradicate that practice.

OMRAN EL-SHAFEI, expert from Egypt, invited the delegation to give greater consideration to the Covenant in the process of their transition. Africa was watching Cameroon and how it would solve its problems. There were many positive things and many concerns. Conditions of detention, frequency of torture, armed forces operating against civilians, extra-judicial killings, limitations of freedom of the press and association were all of particular concern. Greater power sharing and better investigative mechanisms of violations were necessary. More power should be given to the National Committee on Human Rights and Freedoms.

FAUSTO POCAR, expert from Italy, said concerns still existed in the areas of the protection of public freedoms and in the judicial system. He commended the Government for its progress in efforts to ensure observance of human rights.

NISUKE ANDO, expert from Japan and Committee Chairman, recalled the statement by the delegation of Cameroon that the colonial legacy often prevented the full implementation of the Covenant. He cautioned that, although the past presented difficulties, it did not exempt a country from the observance of the Covenant. The Covenant should not be an obstacle, it should be a help in the process of transition.

Mr. BILOA TANG, representative of Cameroon, said his country had shown a political will for progress. More progress would be forthcoming.

Mr. ZIBI NSOE, representative of Cameroon, said his delegation felt obligated to communicate to the Government and to all people of Cameroon what had been learned in the exchange with the Committee. Without freedom there could be no development, he said.

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AMNESTY LAW IN EL SALVADOR INTENDED TO CONSOLIDATE PEACE, UNITE SOCIETY,
HUMAN RIGHTS COMMITTEE TOLD

Experts Say 1993 Amnesty Appeared To Subvert Commission on Truth

The 1993 Amnesty Law of El Salvador which covered all parties involved in a variety of offences perpetrated during the recent armed conflict, was intended to consolidate the peace process and unite Salvadorian society, the representative of that country told the Human Rights Committee this morning.

Introducing El Salvador's second periodic report on implementation of the International Covenant on Civil and Political Rights, she said the amnesty was absolute, unrestricted, unconditional and applied to those who had been tried and those who had not. She added that problems had been encountered in trying to carry out the recommendation by the Commission on Truth that all victims of human rights violations be compensated.

The Committee's experts expressed serious concern that the Government's haste to enact the Amnesty Law, following the issuance of the recommendations of the Commission on Truth, appeared to be an attempt to subvert the Commission. Although such laws might meet the needs of reconciliation, the protection of human rights must not suffer, several experts emphasized. Also, amnesty should not stand in the way of investigations to establish facts or compensate victims. Questioning the constitutionality of the Amnesty Law, one expert asked if the current members of the judiciary would be competent to rule on such a matter, as they had been criticized in the Commission's report.

Reference was made by several experts to the difference between what was on paper regarding human rights in El Salvador and the real situation. Questions were also asked about why the report claimed there had been no suspension of constitutional guarantees since 1987, when the Secretary-General had been informed that a state of emergency had been declared in 1989. Further clarification was sought on the rights of "natural" children and the existence of laws that supported unequal rights for men and women.

The Committee will meet again at 3 p.m. today to continue examining El Salvador's report and to discuss the implementation in El Salvador of rights covered under articles 6, 7, 9 and 10 of the International Covenant, specifically the right to life, liberty and security of the person and treatment of prisoners and other detainees.

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The Human Rights Committee met this morning to begin consideration of the second periodic report of El Salvador on measures it has taken to implement the provisions of the International Covenant on Civil and Political Rights (documents CCPR/C/51/Add.8 and HRI/CORE/1/Add.34).

Under article 40 of the Covenant, every State party has undertaken to submit reports to the Committee on the implementation of the Covenant. The report should take into account questions raised in the Committee on information supplied in any previous report, as well as the Committee's general comments. The report should also inform the Committee on changes made or proposed in laws and practices relevant to the Covenant, difficulties experienced in implementing the Covenant and the progress made since the last report.

The report begins by recalling that during the last 10 years, El Salvador has undergone a serious crisis. A priority goal in the resolution of that crisis has been the achievement of a stable and lasting peace, with a principle objective being to guarantee unrestricted enjoyment of human rights. The 1983 Constitution has been amended to improve the machinery for safeguarding human rights and administering justice. Since the implementation of the provisions of the 1992 peace agreements between the Government and the Frente Farabundo Marti para la Liberacion Nacional (FMLN), steps have been taken to introduce major changes into the secondary legislation. The machinery of justice had been strengthened and the field of political activity has been broadened to include new political institutions of various leanings. The general objective of the Government is national recovery.

El Salvador is situated on the south-west of the Central American isthmus and is the only country in the region that does not have a Caribbean coast. It has a population of 5,047,896 and agriculture is the mainstay of the country's economy. The political institutions are governed by the Constitution, which, since being amended in 1991 and 1992, has as its guiding principle "protection and respect for the individual and his dignity". The form of Government is republican, democratic and representative and the political system is pluralist. The basic branches of the Government -- Legislative, Executive and Judicial -- exercise their powers independently.

According to the report, institutions that are specifically geared for the protection of human rights are the Supreme Court of Justice, the Ministry of Justice, Presidential Commissioner for Human Rights (Executive) and the Department of Public Prosecutions. Under the latter, an Office of the Procurator for the Protection of Human Rights has been established, as a result of the peace agreement.

The function of the Procurator's office is to ensure the observance of human rights, investigate complaints of human rights violations, assist presumed victims, initiate judicial or administrative proceedings for the protection of human rights and monitor the situation of persons deprived of their freedom. It is also to carry out relevant inspections, supervise the conduct of the public administration, promote reforms, make recommendations, publish reports and develop a continuing programme of activities to foster

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awareness of and respect for human rights. It is a permanent and independent body with administrative autonomy. The Procurator may ask the branches of the State, the civil, military, or police authorities for their assistance, and they are obliged to cooperate with him.

The Procurator is also responsible for: ensuring respect for the guarantees of due process and preventing detainees from being held in solitary confinement; keeping a record of persons deprived of their freedom; issuing statements of public censure against those who violate human rights; attempting to reconcile persons whose rights have been violated with those allegedly responsible; and promoting cooperation links with governmental, intergovernmental and non-governmental organization agencies for the protection of human rights.

The report states that the rights established in the Covenant are also included in the Constitution and further developed in subsidiary legislation. Once international treaties enter into force, they become laws of the Republic and take on higher ranking than subsidiary laws. In the event of conflict between the treaty and the law, the treaty takes precedence.

According to the report, the main problems in the administration of justice are the lack of public cooperation due to poor information about court procedures, fear of reprisal, lack of training for judges and delay in the administration of justice due to the war period. Recent judicial reforms include the creation of new courts of the first instance, with special jurisdiction in criminal, civil and commercial law, and the establishment of a forensic medicine institute.

In another part of the report, it states that every person in El Salvador is entitled to exercise civil and political rights regardless of nationality, race, sex or religion and, in practice, the enjoyment of civil rights may not be restricted on account of political opinion. Any person who considers that one of his constitutional rights has been violated has three basic remedies: habeas corpus; amparo; and action of unconstitutionality.

Between April 1985 and 12 January 1987, as a result of serious disturbances of public order provoked by "enemies of democracy", constitutional guarantees were suspended under legislative decree. Certain guarantees are suspended in the event of war, rebellion, sedition, catastrophe, epidemic or other general disaster or serious disturbances of public order. Suspension must be effected by decree of the Legislative Assembly or the Executive. Individual rights may be suspended for a period not exceeding 30 days.

The report goes on to say that the State has not changed its position on the death penalty since the last report, which states that it may be imposed only in cases provided for in military legislation during a state of international war. Torture has been completely prohibited under Salvadorian criminal law and any staff of a penitentiary or detention centre who orders, commits or permits such abuses is "liable to appropriate disciplinary action".

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There are three types of detention in El Salvador: arrest in flagrante delicto; administrative detention; and judicial detention. While the law says that administrative detention may not exceed 72 hours in duration, security bodies designated as auxiliary organs of the administration of justice have for decades not respected the rights of detained persons, who have been refused defence counsel, subjected to torture and held incommunicado.

A newly established body, the Department of Information on Detainees was designed to secure better control of the detention centres, prevent violations of human rights such as disappearances, torture and ill-treatment, prevent illegal and arbitrary detention and provide information to interested applicants. Every State or municipal judge or administrative authority or auxiliary body in the administration of justice or military or subordinate authorities must, within 24 hours, inform the Department of the detention of any person. Since the creation of the new body, compliance with some provisions of the law has been achieved. When a request for information on a detained person is not responded to appropriately, the matter can be brought before the Supreme Court.

Overcrowding in prisons arises from the fact that many of the inmates have not been convicted, but are awaiting trials. Plans to reduce overcrowding include the enactment of an "Emergency Act to deal with the problem of unconvicted detainees". The act aims to bring about the release of persons detained for excessively long periods without any judicial decision on their cases. Women prisoners do not receive sufficient care and there is only one prison for them. They do not have access to educational and work programmes organized for all male prisoners and are not allowed conjugal visits. A comprehensive plan of care for women prisoners has been drawn up.

The report goes on to say that freedom to practise all religion is guaranteed without restriction. The legal personality of the Catholic Church is recognized and other churches may obtain recognition of their personalities in accordance with the law. Between 1986 and May 1992, 155 churches of different religious persuasions had obtained legal personality.

A significant problem in Salvadorian society is the high proportion of children born out of wedlock. The Department of Family Affairs works to secure recognition and maintenance of "natural children". Such recognition reinforces the child's "right to a name", an important concept in Salvadorian law. Special attention is paid to "street children" and the National Secretariat for the Family, with the support of the United Nations Children's Fund (UNICEF), put into operation a programme of physical and psychological rehabilitation and social reintegration. Under that programme it established an "open centre", where children receive food, lodging, health care, educational guidance, psychotherapy and occupational guidance.

The peace agreements brought a reform of the electoral system, which in turn has led to more radical reforms in the Electoral Code. The principal changes proposed in the electoral legislation are the creation of a national register of natural persons, the international reorganization of the Supreme Electoral Tribunal and the establishment of an electoral roll unit differing

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from the current one with regard both to its functions and its autonomy vis-à-vis the Legislative Assembly.

While the report states that "there are no significant minorities in El Salvador", it goes on to say that the State does protect the existing indigenous population with a view to preserving its identity and promoting and safeguarding its culture and customs. According to the Constitution, the indigenous languages spoken within the country "form part of the national heritage and shall be preserved, disseminated and respected".

Based upon an initial reading of the report, the Committee has posed to the Salvadorian delegation, a number of questions under the following headings: articles 2, 4 and 26 -- constitutional and legal framework within which the Covenant is implemented and state of emergency; articles 6, 7, 9 and 10 -- right to life, liberty and security of the person and treatment of prisoners and other detainees; article 14 -- right to a fair trial; and articles 3, 18, 19, 25 and 27 -- non-discrimination and equality of the sexes, freedom of opinion and expression, right to participate in the conduct of public affairs and rights of persons belonging to minorities.

This morning, the experts will seek clarification on: whether there are any rights guaranteed in the Covenant that have not been effectively incorporated in the Constitution; clarification on what measures have been taken to ensure non-discrimination on the grounds of race, colour, sex, language, religion, political, national or social origin, property, birth or other status; what led to lifting the state of emergency in 1987; and the status of special military tribunals that once had jurisdiction over those accused of crimes against the State and the public peace during times when constitutional rights were suspended.

Other questions for the El Salvadorian delegation concern the scope and content of the Amnesty Law decreed in 1993 and measures taken to ensure the victims of human rights violations, the right to an effective remedy under the Covenant and to what extent the report of the Commission of Truth had been taken into account in that regard.

Introduction of Report

ELIZABETH VILLALTA (El Salvador), responding to questions of the experts, said all rights covered under the Covenant were included in the text of the present Constitution. Any person might seek the protection of the Supreme Court if they believed their rights had been violated under the Constitution. They might also seek the remedy of amparo before the Constitutional Hall of the Supreme Court of Justice, which is made up of five magistrates elected by the Legislative Assembly. When the right of freedom had been violated, there was recourse to habeas corpus. El Salvadorian law covered all the rights of the Covenant.

Regarding non-discrimination on grounds covered under article 2 and article 26 of the Covenant, she said the principle of non-discrimination was established through the Constitution and through secondary law. Among other

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things, it guaranteed equal pay for equal work, the right to form trade unions without discrimination and the right to equal education for all.

She said the state of emergency was addressed and regulated under articles 29, 30 and 31 of the Constitution of El Salvador. Suspension of guarantees from 1985 to 1987 was based on the crisis the country was then experiencing. Military courts were given competency to govern and deal with the state of emergency, but the law of criminal or penal procedures applicable to the suspension of constitutional rights during an emergency had been repealed. Military courts now dealt only with military offences. Civilian matters came under the jurisdiction of regular courts. Military jurisdiction fell only on military shortcomings, offences and transgressions and only military personnel could appear before such courts.

The Amnesty Law of 1993 covered any parties involved in a variety of offences growing out of the armed conflict, she continued. It was a way of consolidating the peace process and uniting Salvadorian society. It also expanded the concept of political offences to anything that involved terrorist acts and all the derivatives thereof. The amnesty applied to those who had been tried and those who had not. It was absolute, unrestricted and unconditional, she said.

Problems had been encountered in trying to compensate all those who had been victims of human rights violations, she said. Studies were being undertaken to see how to resolve those problems. The Prosecutor's office and the Government were working hard to find solutions. The Commission on Truth had stipulated that a special fund must be set up to guarantee compensation for those who had been victims of human rights violations. The international community must become involved in setting up that fund. Any international aid that came in to assist in that matter was earmarked for the fund. The new Government would inherit the responsibility for pursuing and following up on the peace accords.

Questions from Experts

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, said that more information regarding factors that prevented implementing the Covenant was needed from El Salvador. The country's report had not answered a number of questions and that was discouraging. It was a crucial time in the country, because of the elections culminating the peace process.

The expert said that it was alarming that the report was submitted very late and he asked why the Government had submitted it so late. He said that some sections of the report seemed to confuse the rights of non-discrimination and the right to full equality before the law. There was no information about the real situation regarding rights against discrimination. There had been atrocious violations of human rights in El Salvador and remedies and guarantees regarding extrajudicial proceeding, killings and abductions had not been applied. Reforms in the judicial system suggested by the Truth Commission were necessary. Constitutional changes must be applied to the judicial realm, too.

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The expert asked what had been done to compensate the victims of violations and whether human rights violators had been identified and prosecuted. Last year, the Commission on Human Rights had criticized how some of the human rights violators had been allowed to go about with impunity. El Salvador had not curbed the powers of the military, even though many countries of the world had done so. Some of the people who had violated rights were still in high positions. The delegate from that country should explain how El Salvador's Amnesty Law was promulgated and implemented. That law must not be a pretext for ignoring the country's obligations to international treaties. The law could hamper the investigation of those who had violated human rights. The killing of six Jesuits and some domestic servants had been handled in violation of the norm. The Committee had been told that the new Constitution had changed the way things were done in the country. Yet that Constitution had been denounced by Roberto D'Aubuisson, who had himself been identified as a founder of the death squads.

He asked questions about the rights of woman in El Salvador and about the position of judicial advisor, who was usually a man. He asked about the rights that were suspended under the state of emergency. There should be full information on the state of emergency, he said, which had contributed to serious violations of human rights in El Salvador.

CHRISTINE CHANET, expert from France, said that nothing in the report or the statement by the representative of El Salvador would appear to suggest that that country was one that had experienced events of exceptional gravity. The report did not seem to be entirely in accord with reality. She could not accept the gaps that appeared in the report, despite the fact that it followed the guidelines of the Committee. There was considerable confusion in the report. Article 3 in the report did not have anything to do with article 3 of the Covenant. The same was true of other articles covered in the report.

She said that the El Salvador Constitution made only general references to human rights and there was no special linkage to the Covenant. She would like further information about the role and the place of the Covenant in the laws of El Salvador. Regarding article 2 of the Covenant, she said that in 1993, immediately after the release of the report of the Commission on Truth, the Government had proposed an Amnesty Law. The representative had said the amnesty was a general law that covered all parties. In fact, it was so general that it exonerated all those who had engaged in certain forms of abuse during the period covered. The haste was strange and suggested that its main purpose was to subvert the Commission, which was composed of international and independent individuals who had managed to identify the violations that had taken place.

She went on to say that the Commission had made a number of recommendations, including the impeachment of all those in the Army and the administration, an inquiry on death squads and supervision of the Army. She wondered whether, instead of bringing about national reconciliation, the Government had intended to thwart the Commission and to deprive the victims of

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any compensation. How could there be international assistance to the special fund to compensate victims, if the perpetrators of human rights violations were not brought to account? she asked.

The report claimed that no state of emergency had been proclaimed after 1987, yet there had been a declaration of a state of emergency in 1989, she said. Was it considered that the period after 1987 was one of a state of emergency? she asked. What rights were suspended? Regarding article 26, she said the report claimed that there was no distinction between "natural" and "legitimate" children. There must be a distinction or there would not be so much about natural children in the report. How did the rights of inheritance apply to natural and legitimate children?

JULIO PRADO VALLEJO, expert from Ecuador, said there as a clear schism between legislation and practice in El Salvador. While the laws on the books were good, in actual practice, the situation was very different. For example, the constitutional right to life had been violated when thousands of people had been slaughtered or abducted. Similarly, he said that there had been summary executions that deprived victims of the right to seek the remedies that were in the Constitution. He added that amnesty had been granted to human rights violators, despite the provisions of the Constitution.

The recommendations of the Truth Commission had not been carried out, he continued. After studying tens of thousands of cases, that Commission had said that 95 per cent of the human rights violations had been perpetrated by the army and the death squads. He asked what could be done to punish those responsible for those violations after they had been granted amnesty. The Security Council and the international community had called for the implementation of the Commission's recommendations, but with the amnesty laws those responsible for such killings as those of the Jesuit priests had been freed.

He said that it was the duty of a State party to the Covenant to investigate complaints of killings or disappearances and to punish the guilty. There could be no national reconciliation when those who had violated human rights went free with impunity. Actually, for true reconciliation human rights violators should be tried. He expressed the hope that the new Government that would come to power in June would repeal the amnesty law. He said civilian and military personnel involved in violations should not be allowed to remain in their posts. Their victims must be compensated. The death squads must be identified and dissolved because they were still in operation. There would be no democratization until action was taken on that matter.

He said that President Alfredo Cristiani had tried to reconcile the country, a laudable process. There should be reforms of the judicial system, to allow the judges to work more fairly. He asked about the remedies of amparo and habeas corpus. Could people apply those remedies in the state of emergency? he asked. He also asked if the state of emergency could be

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extended beyond 30 days. On article 30 of the Constitution, he asked what "crimes of international significance" were and how they had been handled by the Government.

MARCO TULIO BRUNI CELLI, expert from Venezuela, said he shared all the observations already made by Committee members. The report did not paint a realistic picture of the human rights situation. He was, however, optimistic about the future. What had been happening in terms of invoking the Covenant? he asked. Since the last report, what laws had been modified to ensure the Constitution's compliance with the Covenant?

Regarding the Amnesty Law, he said the right to find out what the cruel truth was could not be denied. It was not a matter of vengeance, but rather justice. It was an obligation that was not just legal and moral, but international, in that the State had ratified the Covenant. The Mozote incident, for example, where many women and children had been killed, was a situation where agents of the State were responsible. The recommendations of the Commission on Truth were not just for reconciling people, but a way of putting an end to a cruel chapter in the country, punishing those who had perpetrated violations of human rights and establishing machinery to ensure that it never happened again.

He expressed concern that the Committee had not received more information from non-governmental organizations for the purpose of analysing the report. Had the report been made known to the college of attorneys and to national and Central American non-governmental organizations? he asked. How was the report handled? Was it made known to the officials in the Foreign Ministry? Were the views of the Prosecutor-General taken into account? The report provided the opportunity for a dialogue, not simply for examining matters but for coming up with solutions. What was the real situation in El Salvador?

BERTIL WENNERGREN, expert from Sweden, said that El Salvador's report had been very comprehensive, but had said very little about what had happened since the previous report. There had been a digression in that country, and the report had omitted the tragic incidents there. Amnesty International had stated that there were still concerns about violations of human rights and threats to lives. There were reports from non-governmental organizations about instability regarding the enjoyment of human rights. The delegate should provide more information on that question.

The Truth Commission had expressed concerns on human rights, he said. The President of El Salvador's Supreme Court had said that only God could remove him from office before his term ended. That was not a dignified reaction, especially since the administration of justice in that country had been unfair. He asked what would be done to improve the administration of justice in El Salvador, because it been inappropriate and ineffective. The representative of El Salvador had said that human rights had been fully incorporated into the Constitution, but there was nothing about the freedom of information. There had been no total incorporation of the rights in the Covenant into the Constitution. The incorporation of human rights had only been partial.

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ELIZABETH EVAAT, expert from Australia, said she would like more information on the reasons why the institutions in the country had failed to provide the protections for which they were established. She welcomed the report's statement of good intent, but she regretted that there was no information about the Commission on Truth and the Amnesty Law. She was also concerned about the report's lack of frankness and the failure to take action against those who had violated human rights.

Was there a fund for compensation to victims of human rights violations? she asked. Who controlled it? Had anyone received compensation and how did an individual proceed to apply for compensation? She said the problem that needed to be resolved was how to make the institutions covered under the Constitution respect the rule of law. What was being done to ensure that every member of the military understood how the rule of law applied to them? How could a new institution be built when so many of its members had been discredited? Could the Procurator for the protection of human rights initiate legal proceedings to protect the individual? Had any reports been published by the Procurator's office?

RAJSOOMER LALLAH, expert from Mauritius, said that he was disappointed with how the report had omitted a period when there had been dramatic violations of human rights. He said that while the Amnesty Law of El Salvador had derogated from some rights and remedies, it had been omitted from the report. The law had protected some people who could be criminals. It had either diminished or eliminated remedies that people had against perpetrators of human rights violations. He asked if there was any provision in the Constitution that allowed the passing of an amnesty law that stripped away the right to seek redress and to prosecute human rights violators. Was it possible to challenge the constitutionality of that law? he asked. If such a matter went to court, would the current members of the judiciary be the right people to rule on such a matter, since they had been criticized by the Truth Commission?

TAMAS BAN, expert from Hungary, expressed concern about the combination of the second and the third periodic reports of El Salvador and said that the action should be explained. The current report was concise and gave in-depth knowledge on the legislation in El Salvador. However, there was a chasm between what was on paper and the real situation.

What was the relationship between El Salvador's domestic legislation and the Covenant? he asked. What guarantees were in the Constitution to protect rights against torture, cruel and inhuman punishment, and to guarantee rights to equality before the law, the freedom of association and the presumption of innocence in criminal proceedings? He also sought an explanation about the cases that had been handled by the Procurator's Office. He asked what the Government's stance was on the role of international human rights organizations in improving human rights in El Salvador.

ROSALYN HIGGINS, expert from the United Kingdom, said that the report, while detailed and concise, contained nothing on the recommendations of the Truth Commission and the Amnesty Law in El Salvador. Freedom of expression

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and an independent judiciary were necessary for rights to be guaranteed. She asked which of the Truth Commission's recommendations the delegate saw as necessary to guarantee human rights. Some steps were necessary to guarantee rights, otherwise they would exist only on paper. She asked about plans to purge the Army of some elements. The lack of judicial reforms jeopardized the political process. The Supreme Court had been playing a negative role.

Regarding the state of emergency, she said it seemed that both habeas corpus and amparo ceased to exist under such conditions. She asked why it was necessary for an accused person not to know his rights or to have them removed in a state of emergency. Would the present Procurator continue after the United Nations Observer Mission in El Salvador (ONUSAL) had left El Salvador? she asked. She expressed surprise at the scope of the amnesty in El Salvador.

FAUSTO POCAR, expert from Italy, expressed satisfaction that the Committee would have an opportunity to pursue a dialogue with the delegation of El Salvador, as El Salvador's cooperation with the Committee in the past had been unsatisfactory. Towards the end of 1987, the Committee had sent a letter to the Government of El Salvador asking for information on the killing of the Chairman of the Commission on Human Rights. There were no references to the Commission in the report. Was it still in existence? he asked.

He said general amnesty laws were within the realm of possibility and although they might meet the needs of reconciliation, the protection of human rights must not suffer. Compensation of the victims of violations of human rights must not be lost. The Amnesty Law should not stand in the way of investigations or establishing facts and it should not disrupt compensation to victims. People implicated in acts of violence should not be allowed to continue in public life in jobs that they had performed earlier. Existing constitutional difficulties should be overcome. In that context, he questioned the constitutionality of the Amnesty Law.

OMRAN EL-SHAFEI, expert from Egypt, said the report had been drafted in August 1993 and the delegation had not given much information beyond that date. There had been many events and a series of reforms. He would welcome additional information on the implementation of the Covenant. He hoped the delegation would reveal how much the situation had been examined by the Government in power and how much attention was being given to various international instruments.

The Commission on Truth's recommendations had not been heeded, he said. Rather, the Government had gone directly to a general Amnesty Law. He called on the delegation to take the matter seriously and to convey to its Government, the concern of the Committee about the general Amnesty Law. The Committee had had previous experience with such laws that, in fact, covered up abuses of past administrations.

WALEED SADI, expert from Jordan, said that El Salvador should have sent people from the Interior Ministry to brief the Committee. He asked for statistics about how often the rights of habeas corpus and amparo had been

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used. He asked how the amnesty law accorded with the Geneva protocols and conventions regarding crimes against humanity in domestic conflicts. He asked if the country had approached the United Nations fund for victims of torture in order to compensate Salvadorian victims.

KURT HERNDL, expert from Austria, said the fact that the Truth Commission's recommendations had not been implemented was disastrous. One of the measures taken that set aside the Commission's recommendations was the passing of the Amnesty Law. He added that when the law's constitutionality was challenged, the Supreme Court ruled that such challenges were inadmissible. He asked whether and to what extent the Covenant's provisions could be invoked in Salvadorian laws. He asked if the Procurator had the power to ensure sanctions against human rights violators.

LAUREL FRANCIS, expert from Jamaica, asked whether the issue of compensation was considered before the Amnesty Law was passed. Had the fact that the law would be a violation of El Salvador's obligations been considered before it was promulgated? he asked.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1311th Meeting (PM)

HR/CT/332
4 April 1994

ARMED CONFRONTATION BIGGEST OBSTACLE TO COMPLIANCE WITH COVENANT

EL SALVADOR TELLS HUMAN RIGHTS COMMITTEE

Cites Peace Agreement, Subordination of Armed Forces To Civilian Authority, As Evidence of Human Rights Progress

There was no greater obstacle to compliance with the International Covenant on Civil and Political Rights than armed confrontation, said the representative of El Salvador this afternoon. Responding to questions posed by the Human Rights Committee, he said that despite 12 years of war, progress had been made towards guaranteeing human rights in his country.

As the Committee continued its examination of El Salvador's second periodic report on its implementation of the provisions of the Covenant, representatives of El Salvador cited positive changes in the country's human rights climate, such as the signing of the peace agreement, between the Government and the Frente Farabundo Marti para la Liberacion Nacional (FMLN), the subordination of the army to civilian power, the establishment of the Procurator for the Protection of Human Rights and the Office for Information on Detainees, and the civilian national police.

Experts expressed frustration that the only response the Committee had received to many detailed, specific questions about El Salvador's 1993 Amnesty Law was that it had been a political decision. How was it possible for amnesty to deny some of the rights that were enshrined in the Covenant? some experts asked. El Salvador's representative responded that certain political times demanded political decisions.

Experts also emphasized that, despite being late, the report was considered the second periodic report, not a combined second and third report, as proposed by El Salvador's delegation.

The Committee will meet again at 10 a.m. tomorrow, 5 April, to continue its consideration of the second periodic report of El Salvador.

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Work Programme

The Human Rights Committee met this afternoon to continue its examination of the second periodic report of El Salvador on its implementation of the provisions of the International Covenant on Civil and Political Rights. It will hear a response by the representative of El Salvador to written questions posed by the Committee on how obligations under articles 6, 7, 9 and 10 of the Covenant have been fulfilled. Specific questions include a request for detailed information on measures taken to investigate cases of disappearance, extrajudicial execution, torture and other human rights violations connected with administrative detention, punishment for the perpetrators and prevention of the recurrence of such acts.

Other questions for the delegation concern the progress of the new Department of Information, the death penalty, labour practices, pre-trial detention, treatment of detainees, problems affecting the prison system and the status of persons deprived of their liberty as a result of confrontations in 1978 and 1989.

Response to Questions on Legal Framework

GUILLERMO A. MELENDEZ, representative of El Salvador, said the delegation was treating the second and third report together. There were failings in the report, which took a strictly legal approach and probably did not follow the guidelines of the Committee. That probably resulted from the lack of knowledge and experience of the persons involved in preparing the report. The report was compiled exclusively in the Foreign Ministry, although contact was made with other people. It had not been published in El Salvador and the Office of the Procurator was not consulted. In the future, the guidelines would be followed and there would be close consultations with other agencies, so as to arrive at a comprehensive approach as to what the report should contain.

He said the country had been in a situation of armed conflict in which many grave violations had occurred. There could be no greater obstacle to complying with the Covenant than armed confrontation. Since the peace agreements, however, there had been a great opening up in the country. The situation of human rights in El Salvador had undoubtedly taken a turn for the better. The report of the Human Rights Commission had indicated that there was surely a problem, but in recent years there had been a positive trend. Since the signing of the peace agreement, the ideological and political space had opened up. The left was now participating with other institutions in the political process. Freedom of expression and freedom of thought were no longer restricted.

In conformity with the recommendation of the Commission on Truth and in coordination with the Secretary-General, a commission had been set up to investigate the irregular armed groups, or "death squads". Regarding the Amnesty Law, he said the case of El Salvador represented a political problem

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and a political solution had been found in the peace agreement. The Amnesty Law was a political decision to avoid any further conflict and enable the country to try to avoid further polarization.

He went on to say that the country was in the process of a difficult transition after 12 years of war. The process called for considerable resources, which so far had limited what the country could do. United Nations agencies that had contributed funds had stopped, because it was felt that the funds had not been used appropriately. If the funds had been more forthcoming, more could have been accomplished. For example, if the funds had been available, the police force could have been trained more rapidly, which would have avoided certain internal problems. The crime rate was declining as the national police force grew.

He said the Committee should bear in mind that during the time when the report was not submitted, the country was in a state of armed conflict. There had been, nevertheless, positives changes. The fact that the armed forces was subordinate to civilian power and subordinate to the Constitution, the signing of the peace agreement and a series of other actions had not been included in the report. There were shortcomings in the judicial system and the protection of human rights, but the Government was moving forward. The peace process was irreversible. The country would not allow things to revert to what they had been in the 1980s.

ELIZABETH VILLALTA,, representative of El Salvador said the legal hierarchy began with the Constitution, which was the fundamental law. International treaties adopted by the Legislative Assembly took precedence over secondary legislation. Article 144 of the Constitution said that international treaties constituted the law of the Republic. Secondary law might not modify or repeal a treaty in effect.

The Procurator for the Protection of Human Rights was another institution that had emerged from the peace agreements, she continued. The Procurator-General was not a part of the general judicial structure, but part of the Department of Public Prosecutions, which was also made up of the office of the Attorney General and the Prosecutor-General. The Procurator could intervene on behalf of detainees, promote and ensure observance of guarantees, monitor the observance of human rights, investigate and propose solutions. It could not, however, impose sanctions, since it was an ombudsman and must use persuasion. That office had superseded the Commission for Human Rights. The Procurator could initiate judicial or administrative proceedings for the protection of human rights.

She said the judiciary was trying to effect the quick dispensation of justice. In addition to the Office for Information on Detainees, which worked 24 hours a day, new courts had been established. The office on detainees was computerized and anyone had access to the office for information. The office had resources to make a declaration and send it to the Constitutional office of the Supreme Court of Justice, in which case the remedy of habeas corpus was employed.

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The Supreme Court of Justice also had observers of the penitentiary system to verify the condition of detainees, she said. They were already working in four of the penitentiaries. Another step was that the judges had higher salaries, making them more independent. Further, there was a 24-hour rotation in the courts. Moreover, conditions for the judges had been improved in the form of judiciary dormitories. Another measure was a system for judicial hearings and a computerized system to monitor sentences.

The armed forces in El Salvador had a reduced role and there was a civilian national police, she continued. The armed forces were no longer charged with public security. They maintained the sovereignty of the State and the integrity of the territory. Under the peace agreements, the armed forces must also be given courses on human rights and that was done on all levels. A family code had been approved, but had not yet entered into force because the family courts were not yet under way. Family judges had to take a training course and be appointed. They were not yet working and family issues were being dealt with in the judicial courts. With the new code, children born within or without marriage or adopted would have equal rights. There were currently inequities. With regard to inheritance, children born within the marriage had precedence.

Questions from Experts

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, said the Committee established which periodic report was being considered. In this instance it was the second report from El Salvador, not a joint second and third report. He noted that it had been stated that anyone had the right to ask that a law be declared unconstitutional, yet that assertion seemed contradictory.

JULIO PRADO VALLEJO, expert from Ecuador, said that the military police force was supposed to be dismantled because of past abuses and a new national civilian police force established. Yet, he read of concerns that the ranks of the new police force had been increased by additions from people of the old police force, as well as demobilized soldiers.

MARCO TULIO BRUNI CELLI, expert from Venezuela, said he was frustrated that the only response the Committee had received to many detailed, specific questions was that the law of amnesty was a political decision. How was it possible for the amnesty law, as a secondary law, to deny some of the rights that were enshrined in the Covenant? he asked.

Mr. MELENDEZ, said he agreed that there were contradictions between international law and constitutional provisions, but certain political times demanded political decisions. Human rights instruments had not always been consistently analysed. Concerning the national police force, he said he remembered the concern initially that elements were being introduced into the force that might be harmful. Yet, as time went by, it no longer appeared to be a problem. An agreement had been reached. The old national police force would be a thing of the past by November.

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LAUREL FRANCIS, expert from Jamaica, said the issue of amnesty was the most comprehensively important one concerning the report. It was highly political and could not be glossed over. There must be accountability to the Committee and the Committee should return to the matter.

Mr. AGUILAR URBINA asked was it were possible to allege ignorance of the law to avoid responsibility?

Ms. VILLALTA replied that it was not possible once a law had been published.

Response to Written Questions on Right to Life and Liberty

Ms. VILLALTA, representative of El Salvador, said a civilian national police had been created to be in charge of administrative detention. By constitutional mandate they would be obligated to protect the human rights of persons in detention. Another measure to avoid the violation of human rights was that administrative detention should not exceed the period permitted by law. The office for Information on Detainees, the Office of the Procurator for the Protection of Human Rights, observers at the penal institutions and an office for investigations on human rights at the administrative stage, were recent initiatives to protect human rights. There was also a special committee on justice and human rights in the Legislative Assembly. The difficulties encountered in implementation had to do with the transition from war to peace and with a lack of revenues. But, little by little, the steps were being taken.

She said the Department for Information on Detained Persons had been functioning for four years and had already made substantial progress. The auxiliary judicial organs had to report to the Department within 24 hours of detaining a person. Administrative detention could not exceed 72 hours, a situation that had not prevailed before. She said the death penalty existed only for military crimes committed during a state of war. It was connected with the punishment of traitors and fell under the military code of justice.

Imprisonment for debt, life imprisonment and any form of torture were prohibited in El Salvador, she continued. In that country, the Ministry of Justice addressed the treatment of offenders and was responsible to see that convicts were properly treated. Any penitentiary personnel committing acts of violence towards the prisoners were subject to discipline. Furthermore, any person detained must be informed of their rights. The code of penal procedure set forth an obligation to bring a detained person before a competent court. For those who did not have attorneys, the faculty of law at the universities of El Salvador had, as a basic requirement, that graduates must be trained in the defence of convicts who did not have other recourse to an attorney.

The treatment of offenders was a major problem, she said. Some of the issues had been addressed by various branches of the Government. The judiciary was adopting a database to keep track of detainees. The oversight of the penal institutes had also been undertaken, but due to budgetary limitations it had not yet been extended to seven penal institutions. The

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Ministry of Justice was responsible for monitoring conditions in the the penal institutions.

There were separate penal centres for women, minors, drug addicts, military personnel and the highly dangerous, she said. There were two clinics for detainees suffering from physical or mental illness. The Government needed a larger budget for those purposes. There was also a need to train staff in the penitentiaries, because they needed to be made more sensitive to human rights. In addition, more penal centres were needed. A prison that was designed to hold less than 1,000 prisoners, in fact held 2,000 prisoners. The women's prison had been damaged by the earthquake and women prisoners were now being held in units that were attached to the men's detention centres.

She said there were programmes for the rehabilitation of prisoners that focused on training, prevention and treatment of the mentally ill. International aid would be helpful to try to improve the problems of detainees in El Salvador. Persons deprived of their liberty as a result of the conflict from 1978 to 1989 had been, for the most part, released. The law had established that all who had participated in the armed conflict could make use of the Amnesty Law.

Questions from Experts

Mr. AGUILAR URBINA, expert from Costa Rica, said that while the answers shed a great deal of light on the legal situation, they were really just a repetition of the information in the report. He said the report was meant to refer to the situation over a 10-year period, not just the situation today. He was also concerned that there had been no response to the many questions asked to obtain information, including ones on political detainees. As an example, with reference to the death squads, he said there had been hundreds of thousands of victims and the matter could not just be set aside. How successful could an inquiry be if an amnesty law did not allow prosecution for certain abuses? he asked.

He requested more information on measures taken concerning torture and executions, as well as any new strategy for the armed forces to avoid abuse and mistreatment. The report had not informed the Committee on what had happened during the period of war. He requested more information on charges of torture of detainees. Certain sections of the report contained contradictory information, he added.

ROSALYN HIGGINS, expert from the United Kingdom, said under the peace agreement, there was intended to be a sifting out of human rights violators and a replacement of three units of security forces. What methods were in place to screen out undesirable elements of the paramilitary groups? she asked. She said there was an impression that the killings by death squads were not being investigated with any great vigour. She requested more information on how the truth from the past on the death squads was being determined. Also, why was the Department of Information on Detained Persons not making its register of names available to the Council for Human Rights? The report indicated that there was a separation of certain groups in

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prisons. Why was there a separate section for homosexuals, as well as one for members of the armed forces?

RAJSOOMER LALLAH, expert from Mauritius, said that while he appreciated the information from Ms. Villalta, he was confused over conflicting information on the death penalty for civil offences. He asked for figures and clarification on the issue.

Mr. CELLI, expert from Venezuela, said the law prohibits such things as life imprisonment and torture. Given that even in countries in a state of peace, let alone one at war, there were complaints of torture, he said he would like information on investigations of torture and other abuses in El Salvador that went beyond saying that the Constitution forbids torture. There had been many instances of torture by members of the armed forces. Were there specific programmes aimed at the police and the armed forces to avoid incidents of torture? he asked.

TAMAS BAN, expert from Hungary, asked how many people had been executed by the death penalty in the past year. Also, he said the report was silent on legislation for torture committed by military and police staff. He questioned whether pouring money and manpower into such new institutions as the Department of Information on Detained Persons was a wise investment.

Mr. PRADO VALLEJO, expert from Ecuador, said that while the Department for Information on Detained Persons was a good initiative, the procedures for detention remained too broad. All the good intentions had apparently not yet been successful and detentions were carried out in the most arbitrary way. In 1992, there had been 256 extrajudicial executions and 308 in 1993. Had these executions been investigated? he asked. Most cases of violence were attributed to the national police. What systems or safeguards could be established to address the problem?

CHRISTINE CHANET, expert from France, asked if the military regulation concerning torture by subordinate officers on orders from superiors had been abolished.

ELIZABETH EVATT, expert from Australia, asked why it was necessary to separate homosexuals in the prison system.

Response of El Salvador

Mr. MELENDEZ, representative of El Salvador, said that many of the Committee's questions had a political connotation and were quite sensitive. He would prefer to have time for consultations and report back to the Committee tomorrow.

The Committee decided to postpone responses to their questions on implementation of articles 6, 7, 9 and 10 of the International Covenant until tomorrow.

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Ms. VILLALTA, representative of El Salvador, responding to the Committee's written question on non-discrimination and equality of the sexes, freedom of opinion and expression, right to participate in the conduct of public affairs, and rights of persons belonging to minorities, said many measures had been introduced to reduce the remaining inequalities between men and women. Men and women had the same right to form professional associations and unions. Women received labour benefits that were not available to men -- for example, not working in dangerous conditions and reduced working hours. In 1950, legal inequalities between spouses were abolished. Formerly, married women were reduced to a position of inferiority to their husbands. Under current legislation, she retained the right to continue using her family name.

She said that, as a notary, she had performed many marriage ceremonies, but perhaps because of the machismo mentality in her country, none of the women had chosen to keep their family names. Nevertheless, women were in a number of high professional positions in the Government and it was fairly certain that there would soon be a woman on the Supreme Court of Justice. Regarding censorship, she said that there was an office that supervised public entertainment in terms of honour and public morals. Latin American morality was still conservative and not as broad-minded as some other cultures with respect to pornography, particularly in terms of how it might affect minors. Movies were classified as thought appropriate to different age groups. The penal code referred to offences as they applied to public honour and morality.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1312th Meeting (AM)

HR/CT/333
5 April 1994

DEATH SQUADS NEVER A SYSTEMATIC POLICY OF THE GOVERNMENT.

EL SALVADOR TELLS HUMAN RIGHTS COMMITTEE

Cites Report of Commission on Truth; Experts Question Subordination of Military, Assessment of Responsibility For Atrocities

Death squads in his country were a difficult and controversial topic, but at no time had they been a systematic policy of the Government, the representative of El Salvador told the Human Rights Committee this morning.

Speaking as the Committee continued its examination of El Salvador's second periodic report, the country's representative stated that the Commission on Truth, contrary to the reports of Amnesty International, had concluded that the death squads had been designed, operated and financed by civilians. Furthermore, he said, El Salvador was not the only place where certain elements had escaped the power of the Government and he asked the Committee to take into account the conditions of war that existed in his country for 12 years.

El Salvador's representative also emphasized the reforms that had been made since the peace accords were signed in 1992, among the most important of which had been the acceptance by the armed forces of its subordination to civilian authority and the appointment of a commission to investigate human rights abuses since 1980, which would report both to the Government and the United Nations Secretary-General.

Experts addressed questions to El Salvador's representative on both those points, asking if the armed forces had truly subordinated itself to the civilian government and stressing that responsibility for several incidents, including the atrocious assassination of several Jesuit priests in 1989, had to be assessed.

Among the other issues dealt with by El Salvador's representative were discrimination of ethnic minorities, recently established governmental human rights machinery, including a Procurator for the Protection of Human Rights, reforms in the judiciary, political crimes as stipulated in the criminal code, and the new national police.

The Committee will continue its examination of El Salvador's report at 3 p.m. today.

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Work Programme

The Human Rights Committee met this morning to continue its examination of the second periodic report of El Salvador on its implementation of the provisions of the International Covenant on Civil and Political Rights. It will continue to hear responses by the representatives of El Salvador to questions posed by the Committee on how obligations under articles 6, 7, 9 and 10 of the Covenant have been fulfilled. It will also hear further responses to written questions on how obligations under articles 3, 14, 18, 19, 25 and 27 have been implemented.

The delegation will also answer written questions on the implementation of article 27, which concerns the rights of minorities.

Response to Questions on Right to Life and Security

GUILLERMO A. MELENDEZ, representative of El Salvador, said that the United Nations Observer Mission in El Salvador (ONUSAL) mandate would end at the end of May, after which the Secretary-General would make a recommendation as to whether the mission would continue. It was likely that it would continue. Future monitoring would not only be in the hands of ONUSAL, but a number of governmental institutions for monitoring human rights.

Death squads were a difficult and controversial topic, he continued. As a result of the peace agreements and the recommendations of the Commission on Truth, a mechanism had been established to look into the consequences of the conflict. There was now a commission with a mandate to investigate serious violations since 1980 and report to the Government and to the Secretary-General of the United Nations. There were a great number of cases that, as the Commission had said, were impossible to pursue. The cases that were known were the ones that were the most important and had international significance.

The armed forces had suffered quantitative and qualitative changes, he said. The armed forces had been reduced by 50 per cent, he said. Moreover, they had accepted civilian authority. The special battalions, which had acquired some infamy, had been eliminated and almost all security forces had been dissolved. The old structure for internal and public security was ending and the new civilian police would be functioning in the area of public security. The judicial body had been greatly criticized, particularly with regard to the President of the Court. During the next round of elections, which would take place in a few days, the judicial body would change and the recommendations of the Commission on Truth would be carried out.

The Commission on Truth and the Human Rights Commission had concluded that civilians had originated the death squads. Civilians had designed, operated and financed them. At no time were they the systematic policy of the Government, contrary to the reports of Amnesty International. His Government was studying the international convention against torture and would decide whether it would comply with it.

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He went on to say that his Government was not being tried by the Committee, but was trying to find means and recommendations to help El Salvador comply with the Covenant and everything to do with human rights. The general framework of events in El Salvador was contained in the various United Nations reports, particularly the report of the Commission on Truth. There was freedom of expression and thought in El Salvador. The left was now participating in the political system, which demonstrated that democratic principles existed. Enlistment in the armed services was voluntary, unless there was a military crisis, and there was a selection process to form the national civilian police.

ELIZABETH VILLALTA, representative of El Salvador, said the reform of the penal code established that those who deprived others of personal freedom would be punished. One way in which the court had acted was to create an Office for Information of Detainees. The registers of those detained were open to the public and every year the judiciary produced lists of all the arrests that had taken place in the country. The death penalty in civil law was abolished in December 1993. The death penalty was only applied to military crimes under military law.

The Department of Criminology had studied the behaviour of certain kinds of criminals and deemed it necessary to separate them, she added. As an example, some homosexuals had attacked their colleagues and the other prisoners had asked that they be separated. Murderers could not be confined with criminals who had committed lesser crimes.

Questions from Experts

MARCO TULLIO BRUNO CELLI, expert from Venezuela, said there had been a number of statements on important issues, including that a new doctrine for the armed forces had been accepted. Yet, were the armed forces truly subordinate to the civilian government? he asked. While emergency measures were sometimes understandable, the death squads had not been subordinate to the Government. He noted that the representative of El Salvador had cited the report of the Commission on Truth in stating that the death squads were made up of civilians and beyond the control of the Government. One of the cases examined by the Commission was the atrocious assassination of some Jesuit priests. The parties responsible for those incidents must be found. He requested more information on the death squads.

RAJSOOMER LALLAH, expert from Mauritius, addressing the right to life, said that while it had been interesting to hear from the representative that the death penalty had been abolished, article 684 of the Constitution definitely stated the contrary. The representative should have said a mistake had been made in the report. Also, had there been sentences of death imposed on the military? he asked.

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, said it was a bold thing to say that elements of the State were involved in human rights violations in the past decade. But an important question had been asked yesterday on the matter of pardoning or commuting death penalty sentences.

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Also, was the regulation requiring strict obedience of soldiers to the orders of their superiors, perhaps even orders of human rights violations, still in force? he asked.

Mr. MELENDEZ, of El Salvador, responded that the questions were complex and difficult to answer. He did not have a copy of the 1982 Constitution, which contained the regulation on the death penalty. There had been reforms that required military subordination to civil authorities and efforts were being made to ensure that the armed forces was required to submit to the established legal order. The past situation was not unique to El Salvador. The armed forces had accepted the reforms. Although it was true that the military had, for the most part, decided things up until 1989, it had not been a situation of parallel governments. The protests and resulting peace agreements had led to the reform of earlier flaws.

Concerning the death squads, he said he had referred to the report of the Commission on Truth and drew upon its points. Again, El Salvador was not the only place where certain elements had escaped the power of the Government and he asked the Committee to take into account the conditions of war that existed for 10 years. Progress had been made since the peace accord. He stressed that he had tried to single out information on the subject from the report of the Commission. He agreed that statistics often offered a muddled picture. Executions had been carried out at one point, but since then requests had been made to commute the sentences. He apologized that a clarification was missing in the report.

Ms. VILLALTA, of El Salvador, added that the provisions for capital punishment applied to the military only under a state of international war. The law was very clear on the matter.

CHRISTINE CHANET, expert from France, said she had just received two different responses to her question of yesterday. She said her question concerned military rule 183 on obedience in the military and its chain of command. The rule was written in such a way that it could be interpreted as requiring subordinate officers to carry out orders that might include instructions to torture prisoners.

Mr. MELENDEZ, of El Salvador, said El Salvador was pledged to carry out reforms. He understood that the military code of justice had been modified to address that point and he would supply the Committee with a copy of the new code.

Responding to written questions on discrimination, Ms. VILLALTA, of El Salvador, said there were no pronounced ethnic minorities in El Salvador. Two ethnic minorities were entered in the registry of the Ministry of the Interior. The Government had protected and preserved the culture and language of the minorities and had established them as part of the national patrimony. In the Foreign Ministry, classes had been set up to teach the ethnic languages. At no time had they been subject to discrimination. Deputies were

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elected to the Parliament by direct vote and minorities could become candidates. Local councils were also directly elected. The same applied to other institutions in the country.

Responding to written question on the right to a fair trial, she said that prior to the Presidential Commission for Human Rights, there had been a governmental Human Rights Commission. Since the new bodies had been set up, the Human Rights Commission body had ceased to exist. The new bodies watched over human rights and saw that the appropriate machinery was brought into play when those rights were violated. The Procurator for the Protection of Human Rights functioned as an ombudsman. He could propose solutions to avoid the recurrence of human rights violations and investigate and deal with allegations of human rights abuses.

She said the judiciary acted through the Supreme Court of Justice, a body responsible for seeing that the remedies of amparo and habeas corpus were applied. Judges and Magistrates were required to implement international treaties. The Office for Information on Detainees also helped to prevent violations of human rights and the Legislative Assembly also had established bodies to monitor human rights. Courses taught by senior professors on the question of human rights were being given to the armed forces, military academies and senior diplomats. Confessions or testimony obtained under duress were entirely invalid and would result in criminal liability for those that had secured them, she added.

The criminal code stipulated that political crimes were acts against the State, she said, including attempts on the integrity or independence of the State, the unity of the nation, lack of respect for territorial integrity, subversive actions from abroad, anarchic action contrary to democracy, repression of any kind against the State, espionage, sabotage, violation of a truce, mutiny, sedition and incitement to rebellion. Steps could be taken to see that individuals that had committed political crimes were forgiven and amnesty could be granted by the Legislature. There were no political prisoners in the detention centres or anywhere in the country, she said.

In response to a question concerning the organization and functioning of the Bar in El Salvador, she said that lawyers were not obligated to be members of the various associations of attorneys, but lawyers viewed it as being beneficial. For the first time, attorneys have had a hand in choosing the Magistrates of the Supreme Court. At the various judicial centres, they had been able to vote for their candidates.

Progress had been made in addressing the problems resulting from the backlog in the judiciary, she said. New courts had been established, including the Family Court, and itinerant courts had been set up, which had helped resolve cases and diminish the burden. There was a better oversight of the work of the courts and facilitating the transfer of cases from one court to another. Now that there was an automatic and centralized distribution of cases, all the courts had a similar flow of work.

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Questions from Experts

BIRAME NDIAYE, expert from Senegal, said the report made a reference to eliminating violent scenes of no artistic value. When a government attempted to determine criteria for art, he added, it constituted interference in basic freedoms and he asked for an explanation of the paragraph. He also asked for clarification of the provision that a husband was not required to pay maintenance to his wife if she refused to live with him.

He also questioned the discriminatory and unequal nature of a clause that allowed divorce for pregnancy of the wife as a consequence of illicit relations prior to the marriage. He asked for more information on possible discrimination against out-of-wedlock children. Also, exactly how did the financing of presidential elections work in practice? he asked.

KURT HERNDL, expert from Austria, said the initial report had only one paragraph on minority groups. While there had now been some expansion on the topic, there was still no mention of indigenous groups in the core document. How was the population of El Salvador composed? he asked. He asked for information to be included in the next report on the percentage of the indigenous population and percentage of non-Spanish-speaking persons. The language of indigenous populations must be protected. He added that the Committee would issue a statement on article 27 on the need to protect the rights of minorities. Those groups contributed a considerable amount to the national heritages of countries and deserved protection.

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, said that yesterday the Committee had been told that only films were censored, yet the report indicated that all artistic works which were subject to censorship. That was a serious matter. How were ethical and aesthetic aspects actually defined to distinguish between vulgar and obscene? he asked. Also, what criteria were applied to public performances? Was the distribution of certain magazines prohibited and, if so, which ones? He also requested more information on the situation with regard to journalists and publications that had printed material on members of the death squads.

He said the provisions of the Civil Code on equality of rights for husbands and wives gave a woman no say about where she lived and no provision for receiving maintenance if she chose not to live with her husband. The provisions about the recognition by the father of children born out of wedlock were also discriminatory.

ROSALYN HIGGINS, expert from the United Kingdom, said she was quite confused about the notion of political crime. Why was it necessary to have a special category of political crimes, as opposed to ordinary crime? she asked. She was concerned about some of the crimes cited, such as handing out literature and incitement to anarchy. She was also disturbed that only amnesty and pardon were available to the offender. Were the recourses to amparo and habeas corpus available? She questioned the concept that those

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accused of political crimes were non-extraditable and that the wide list of offences seemed to be expanded for the purpose of amnesty. Where did that leave "normal terrorism"? Could one be extradited for terrorist acts?

CHRISTINE CHANET, expert from France, said the systems applicable to political crimes were generally not designed to punish members of the opposition. Criteria were adopted to define objective and subjective political crimes, but it was rare to adopt subjective criteria. How did one define the political motive for an infraction? she asked.

Regarding political crimes, she said the system seemed to ensure that those who committed political crimes were treated more favourably than those who committed ordinary crimes. It could also mean that the State could go uncathed when it engaged in acts that might be considered political crimes.

ELIZABETH EVAAT, expert from Australia, regretted that lack of confidence in the judiciary had been widespread. Judges who had attempted to do their job had been subjected to threats and intimidation. There were areas from which the judiciary should distance itself. The Supreme Court seemed to have been put in the middle of a battle between the Legislature and the President in the enactment of a law. In that case, the Court's decisions could be interpreted as taking sides. She was also concerned that the courts were involved in the elections and that judges were affiliated with political parties and were appointed for political reasons.

She said there was little information on the process and safeguards of the seizure of property and surveillance of telephone conversations and correspondence. Who was in charge of those activities and could they be challenged? she asked. Moreover, why was it necessary for directors of trade unions to be Salvadorians by birth? She thought the requirement for the number of people to register to form a party and nominate a candidate was excessive. Could a person apply to be a candidate without belonging to a political party.

FAUSTO POCAR, expert from Italy, asked if the law which disallowed extrajudicial confessions had been passed, or if it was still in the planning stage. If it was not yet passed, had the Legislative Assembly taken the necessary preliminary steps? he asked. Regarding freedom of religion, what were the stipulations for a church to be acknowledged as having a legal personality? He would like to hear an explanation on the attitude towards conscientious objection and if there were any initiatives to change the Government's position. He was also concerned that the rights of workers in the private sector were limited in terms of freedom of association.

There had been problems in the distribution of electoral ballots in communities that were made up of refugees, displaced persons and former soldiers. How were those difficulties overcome? he asked.

BERTIL WENNERGREN, expert from Sweden, asked for the type and number of cases for the administrative dispute court. Were the itinerant courts ordinary courts or were they ad hoc courts that were established when needed?

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he asked. Were they single judge courts? Were there a number of judges who were travelling from one court to another to assist them?

TAMAS BAN, expert from Hungary, asked why prior censorship was needed when there was a serious penalty system by which the authorities were able to punish those who transgressed the existing legislation. A subsequent system of control served the same aims with the same effect. There was practically nothing in the report on the setting up and running of radio and television stations. Were licenses required? he asked. Did the law allow private persons or private enterprises to fund and run radio and television stations? Were literature and newspapers from other countries made available for a large stratum of the population? Was radio and television from neighbouring countries controlled?

VOIJIN DIMITRIJEVIC, expert from Yugoslavia, said he was puzzled by the political crime complex. It seemed to be an aberration of an idea that had been strong in 19th century Europe, which treated people who were committing crimes for unselfish reasons more leniently. The examples and arguments listed by the representative were quite confusing. Amnesty and pardon were not remedies under the Covenant. If the idea of honourable treatment was influencing judgement, was that kind of treatment extended to their treatment in jail? What was the position of non-governmental organizations? Could they issue appeals or intervene in proceedings?

Regarding freedom of expression, he asked if there was still a criminal offence of blasphemy. Were there associations that were listed in the registry of police as being subversive? he asked. When someone was arrested, if he was a member of a group that was considered dangerous, was that a circumstance that made his treatment more difficult?

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1313th Meeting (PM)

HR/CT/334
5 April 1994

GENERAL AMNESTY LAW, DEFICIENT JUDICIAL SYSTEM, CONTINUING MILITARY INFLUENCE,
CITED BY HUMAN RIGHTS COMMITTEE AS OBSTACLES IN EL SALVADOR

Experts Question Constitutionality of Amnesty;
Say Victims Deprived of Compensation, People Denied the Truth

The main obstacles to fulfilling El Salvador's commitments under the International Covenant on Civil and Political Rights were the enactment of the general Amnesty Law, deficiencies in the judicial system and the continuing influence of the military, said experts of the Human Rights Committee this afternoon, as they completed examination of El Salvador's second periodic report.

Experts called on El Salvador to amend the Amnesty Law, which ignored the recommendations of the Commission on Truth and left free all those who had acted against human dignity. Because of the amnesty, the victims of abuse were deprived of compensation and the people of El Salvador could not learn the truth, the greatest affront of all, said one expert. In addition, several delegates questioned the constitutionality of the Amnesty Law, as well as its consistency with the Covenant, and concern was expressed that through the amnesty violators of human rights could once again end up in the armed forces.

The Committee stressed the importance of an efficient, independent and impartial Judiciary, noting that the Commission on Truth had severely criticized the judiciary for not applying the law equally to all. The experts expressed concern over the absence of respect for the rule of law in the institutions that should be protecting human rights and several called for the judiciary and the army to be thoroughly depoliticized.

A number of experts called attention to unequal status of women in El Salvador and recommended that such distinctions be abolished. They also called on the Government to see that courses on respect for human rights were given to all levels of society and that non-governmental organizations be encouraged to participate more actively in the transition process.

(page 1a follows)

Most experts stated that the report was unrealistic, with little reference to actual events of far-reaching significance in El Salvador's history. It reflected the country's aspirations, rather than the real situation, said one expert.

The representative of El Salvador assured the Committee that there was strong political will for change in his country and a commitment to the pursuit of the promotion and protection of human rights.

Also this afternoon, the Committee continued its consideration of its draft comment on article 27 of the Covenant, which concerns the rights of minorities.

The Committee will meet again at 10 a.m. Wednesday, 6 April, to discuss the draft of a third optional protocol to the Covenant and submission of States parties reports.

(page 2 follows)

Committee Work Programme

The Human Rights Committee met this afternoon to continue its consideration of the report of El Salvador on its implementation of the International Covenant on Civil and Political Rights.

Following the conclusion of its examination of the report, the Committee will continue to work on general comments to assist States parties in fulfilling their reporting obligations. The general comments are intended to promote the further implementation of the Covenant by all States parties by: drawing attention to insufficiencies disclosed by a large number of reports; suggesting improvements in the reporting procedure; and stimulating the activities of those States and the international organizations in the promotion and protection of human rights.

Response to Questions

GUILLERMO MELENDEZ, the representative of El Salvador, in response to questions on censorship posed by Committee experts, said that it was an issue that had the potential to violate individual freedoms. The old laws on censorship had not yet undergone major changes. Updating the old codes was a process that took place over time. The old censorship laws had, most likely, been aimed at anarchical doctrines or anti-democratic expressions. The new practice, though, limited its implementation to the moral dimension.

As in many other countries, he said, particular attention was given to curtailing the level of violence depicted in films, to ensure that children were not exposed to harmful or degrading morals. Censorship was viewed less as an attempt to suppress freedom of expression than as an effort to protect a certain moral standard. He acknowledged that there had been some restrictions at the public level not covered in the law, but added that the restrictions had not involved any political activities

On nationwide instruments to defend and protect human rights, he said there were two major institutions: the Presidential Commissioner on Human Rights, which was essentially an advisory and policy setting body; and the Procurator for the Protection of Human Rights, which had replaced the Human Rights Commission. The Procurator was a fully independent office, separate from the Government and with its own separate budget.

There were very few minorities in El Salvador in comparison to other countries, he continued. Even so, there was a unit which looked after their interests. Small groups carried out their own activities and were, for the most part, assimilated into larger society. Their language was, for all practical purposes, Spanish.

Turning to electoral matters, he said financing, of a sort, for electoral campaigning had been implemented because many small parties could not afford to campaign. Any party that received at least one per cent of the vote was eligible for financing. On the right and duty to vote, he said it was not appropriate to compare his country's conditions with those in industrialized countries, like the United States and Europe. El Salvador did not have the

same infrastructure as in those developed countries but it did what it could within the constraints. Information was disseminated on radio and television in such a way as to keep a sense of morality and avoid ethical harm to any group of people. A committee, which could sometimes be subjective, censored on the basis of ethics.

When discussing political crimes, he said it was helpful to look back to earlier times, when the concepts of socialism and communism were of paramount concern and led to the idea that there was such a thing as political crime. That attitude had changed considerably, though, since the peace accord. He said that international non-governmental organizations were regulated by an agreement between the Government and the organization itself. The organization must function in keeping with national laws and national non-governmental organizations must establish their own legal personality.

Concerning irregularities in recent elections, he said that while the electoral process as a whole had been praised, there were certain inefficiencies in the legal machinery. A new legal framework had been established accordingly. In the past, it would not have been possible to form a relationship between leftists and rightists. The case of weapons being found in mailboxes was true, but had been taken care of.

He said there was still much to be done. The programme of giving land to former combatants in the conflict areas had been carried out at only a 12 per cent level and, although there was to be an end to the old police system, there would be a gap until the training programme was completed. New authorities would set up a new Court in June 1995. El Salvador was in a state of transition. Legal reforms and the transfer of land were proceeding and much of their timing and eventual success was dependent on the resources available. But, he added, there should be no doubt that El Salvador's intention was the promotion and protection of human rights. The political will for the changes was there, he said.

ELIZABETH VILLALTA, representative of El Salvador, said the country was traditionally Catholic and the historical importance of the Church could not be denied. Other religions could take steps appropriate for special interest groups and submit their statutes to the Ministry of the Interior, which would endow them with legal status. There was an archaic aspect to all laws in Latin America. Reform had begun but the Family Court would not be established until later in 1994. In the matter of children, legitimate children were products of a married couple, natural children were born out of wedlock but recognized by the father, and illegitimate children were not recognized by the father. The new code, however, would make them equal before the law.

She said the old Roman code of pater familia imposed on the family group the domicile, nationality and name of the father, although that would be changed by a law that would come into effect in October 1994. In the past, the code had placed women in a different category as regards adultery, because through adultery she could bring other children into the family, while the man produced children outside of the family. The new family law would change the inequalities between men and women.

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She explained that lawyers aspiring to be judges had to have special training and recommendations from three lawyers that had already been through the process before they could be considered. The National Council also intervened. A list of 84 candidates had to be proposed by the Council, of which 42 were nominated by the association of attorneys. Judges now had protection from the threats and intimidation to which they had been subjected in the past.

Final Observations of Committee

JULIO PRADO VALLEJO, expert from Ecuador, said the human rights situation in El Salvador had improved, but major problems remained. Abuses on the part of the security forces continued to violate the human rights of Salvadorean citizens. There was a gap between the law and what was actually taking place. The President had helped bring about national reconciliation, but military transgressions distorted civilian life and created situations that compromised freedom.

He said the recommendations of the Committee should be translated into reality. To the extent possible, the Amnesty Law should be refocused, so perpetrators did not go unpunished. The victims of human rights violations must be compensated and the death squads that were still in operation must be dissolved. There must be an efficient, independent and impartial judiciary. The status of men and women's rights must be equalized and courses on human rights must be set up for the police, armed forces, schools and universities.

FRANCISCO JOSE AGUILAR URBINA, expert from Costa Rica, said the report was late and did not address events of far-reaching significance in the history of El Salvador. The Covenant, which was the supreme law in El Salvador, was not being observed. The Amnesty Law left people without any opportunity to find out the truth, which was the most important way of compensating the people for what they had suffered. The amnesty took all those who had acted against human dignity and left them free, both physically and in terms of their conscience. That was the greatest affront to human rights of all, he said.

One of the most severe criticisms by the Commission on Truth of the judiciary was that it did not apply the law equally. The Committee had been told that the Covenant had not been observed because of ignorance of the law, but such ignorance of the law was not an excuse for ordinary people. When the Amnesty Law had been adopted, it left the recommendations of the international community and the Truth Commission without substance. El Salvador could not tell the Committee that the international community was bound to fulfil commitments to assist, if El Salvador itself had not assumed its obligations.

He was still optimistic, however, and he said he was convinced that El Salvador did not wish to return to the situation that existed in the past. If the proposed legislation was implemented, it would set admirable standards. Respect for human rights had grown, but the report did not reflect the major strides that had been made.

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KURT HERNDL, expert of Austria, said it would seem that international force was always needed to achieve compliance with the international law regarding human rights. The overriding influence of the military in the country and certain deficiencies in the judicial system were the obstacles to fulfilment of El Salvador's commitments. Those deficiencies had been brought out in the discussions in the Committee and they should be addressed as soon as possible. Certain actions must be taken, including the punishment of perpetrators, to diminish the influence of the military, to whom more than a quarter of the budget was allocated. He hoped that the Government would carry through the recommendations of the Commission on Truth. He also hoped the Committee would soon receive the third report of El Salvador.

MARCO TULIO BRUNI CELLI, expert from Venezuela, said the task of the delegation had not been easy. The report had many deficiencies and tended to spell out the laws that the country aspired to, rather than what the situation really was. Moreover, the period covered in the report was a trying time, as far as human rights were concerned.

On the positive side, he said, peace had resulted from negotiations and that was an important event in the field of human rights. Also, the process towards disarmament had been initiated. There had been a certain amount of progress in the field of human rights. While the Covenant superceded ordinary law, some laws that were not compatible with the Covenant were still being enforced. However, the report was not made known to anyone outside of the Government. That created problems that must be redressed, he said.

ELIZABETH EVATT, expert from Australia, said the dialogue had been far more rewarding than she anticipated in view of the lack of useful information in the report. She commended the new Family Code and compulsory teaching of the Constitution and human rights. One had to be concerned, though, at the absence of respect for the rule of law in those very institutions that should be protecting human rights. Institutions in El Salvador were still fragile and trying to shake off their histories. Those such as the army and the judiciary must be thoroughly depoliticized. A full awareness of past abuses was a necessary step to building for the future, especially where abuses appeared to be continuing.

There had been a failure to fully investigate and pay compensation for past wrongs, she said. That obligation had not been extinguished by the Amnesty Law. Attention must be given to the democratic process itself, which had to be protected and fostered. Respect for human rights had to be extended to all levels of all institutions. Non-governmental organizations should be encouraged to participate more actively in the transition process, beyond denouncing and exposing human rights violations.

BERTIL WENNEGREN, expert from Sweden, said the Committee had asked many intricate questions. At first, the representative of El Salvador seemed hesitant. Then, he told as much as he could, which had been very helpful. The Committee had learned about many things not contained in the report. El Salvador appeared to already have a good set of legislation that would be useful for the promotion of human rights, as well as good institutions to

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serve that purpose. Nevertheless, the laws and institutions had not been able to produce the results one might expect. Twelve years of war, as well as a judiciary and military that had not been able to meet their duties, had resulted in many abuses of human rights. The recommendations of the Commission on Truth should be applied, to the extent possible.

It was a sign of the health of the Government that it had been able to report on the violations of the right to life with political motives, which continued, he said. He viewed the discussion of the violations as a positive sign for the future. The Government must strengthen awareness of the need for impartiality and independence for the judiciary. Without an independent judiciary, the country could not arrive at a strong democracy.

RAJSOOMER LALLAH, expert from Mauritius, said the report suffered from its formality. Unfortunately, he had not had the benefit of background information from such sources as the report of the Commission on Truth or the reports from non-governmental organizations. Given the fact that the rule of force had not quite given way to the rule of law in the country, it had not been possible to make a systematic investigation of many charges of violations.

The Amnesty Law should be examined for its constitutionality and consistency with the Covenant, he said. The next report should be as precise as possible, inasmuch as he remained baffled by certain sections, including those dealing with the death penalty. He hoped they would be meaningfully corrected in the next report. He added that the country seemed to be moving decisively towards a rule of law.

CHRISTINE CHANET, expert from France, said the representatives had displayed a great deal of competence at a difficult task, since the report did not contain sufficient evidence. One could not overlook the fact that the country was undergoing a transition phase. While the new Family Code seemed modern, there was crucial concern on the part of the Committee over the Amnesty law.

The consensus in the peace accord had led to the creation of the Commission on Truth. The Amnesty Law countered the recommendations of the Commission and could hardly be viewed as a reflection of national consensus, she said. It allowed those responsible for acts of torture to escape punishment and deprived the victims of remedy. There was no record of the violators and they could end up in the army once again. The Commission's recommendation that the entire legal system be reviewed had been undermined by the Amnesty Law. She stressed that the law must be amended. She also expressed the hope that the promising signs gleaned during the discussion would be a reality in the next report.

LAUREL FRANCIS, expert from Jamaica, said that after so many years of violations of human rights, it would have been a miracle if the report had met the standards. Positive developments included the national secretariat for the family, and the emphasis now being placed on women, children, minors, and the elderly. The statistics given on sentences commuted had been helpful, yet no similar approach was taken in presenting information on cases of torture

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and unlawful use of force and violence against prisoners. Relevant rules provided for disciplinary action against offenders and the report was expected to give information on those cases. He added that he was convinced that the quality of the report would hereafter achieve the highest standards.

FAUSTO POCAR, expert from Italy, emphasized the high quality of the dialogue with the representatives of El Salvador. They had attempted to answer all the questions, which were difficult because the information had not been included in the report. Certain issues needed to be monitored and steps taken in the near future. The Amnesty Law, if not repealed, needed to be changed, so that victims could be properly compensated. Also, under the Amnesty Law, persons involved in violent activities could find their way back into public posts. A major effort had to be made to avoid such a circumstance.

He understood that the country was undergoing a transitional stage. Many reforms were underway and the future would hinge on those reforms and the resolve with which they were implemented. Concerning certain points emphasized by various inquiries of the Commission on Truth, he cited the suggestion that the Government accept the jurisdiction of international organs at the national level. In that regard, El Salvador might consider ratifying the optional protocol to the Covenant to assist in investigating violations of human rights.

WALEED SADI, expert from Jordan, said that despite the admirable effort of the delegation, the report had been lacking. The main point of the exercise before the Committee was how the Government of El Salvador would deal with the Committee's recommendations. If they were shelved like those of the Commission on Truth, the work of the past two days would be wasted. In a country like El Salvador, the emphasis must be on the infrastructure of the system.

VOJIN DIMITRIJEVIC, expert from Yugoslavia, said the report had said little about how the laws were being implemented. Given the difficulties that El Salvador had experienced, the report left him with an eerie feeling. The right to life was attended to in only two paragraphs, which referred to the death penalty. The Commission on Truth had determined that there were tremendous difficulties in the judiciary, yet the report gave limited attention to article 14.

The Committee had expected a frank exposition of the problems that a country in the situation of El Salvador faced, he said. Instead, they had heard simple statements to the effect that everything was alright. He believed, however, that the concerns of the Committee would be taken seriously. It was in the interest of the people of El Salvador to learn the truth and to look into the origins of the conflict. The country was in the process of transition, which he hoped would be for the better. The infrastructure of society must be rebuilt and he hoped respect for human rights would be the tool used to accomplish that.

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Mr. MELENDEZ, of El Salvador, said the Committee's concerns were shared by his delegation. Although international laws and treaties had not always been followed up on, the Covenant had not been ignored. Those in a position to invoke the Covenant did so. When he had said the international community must come to help set up a compensation fund, he did not mean that they had an obligation to do so. Economic cooperation machinery had been set up, however, and he thought the Secretary-General would offer some kind of economic assistance, due to the difficulties encountered because of the war. Such aid had been forthcoming, but funds had not arrived in the quantity and speed hoped for.

He said it was important to look at ideas and recommendations that would help the Government to improve the enjoyment of fundamental human rights. His country had the political will to fulfil its commitments, but that could not happen overnight. He hoped the next report would close the gaps manifest in the current report.

Ms. VILLALTA, of El Salvador, said that all the points made by the Committee would be taken to the Foreign Ministry. She hoped the next report would reflect all its recommendations.

The Chairman, NISUKE ANDO, expert from Japan, said the third periodic report was due on February 1991. The Committee would notify the Government of the new deadline.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1314th Meeting (AM)

HR/CT/335
6 April 1994

HUMAN RIGHTS COMMITTEE DECIDES NOT TO DRAFT THIRD OPTIONAL PROTOCOL

Would Have Guaranteed Prompt Trial Even under States of Emergency

The Human Rights Committee this morning decided not to elaborate a draft third optional protocol to the International Covenant on Civil and Political Rights, which would have aimed to guarantee the right to a fair trial and remedy under all circumstances.

It took that action by adopting a recommendation from the working group on the draft third optional protocol, which advised against including paragraphs from article 9 of the Covenant in the list of articles from which there can be no derogation by States parties, even in times of public emergency. Those paragraphs refer to the right to a prompt trial in the event of arrest and detention on a criminal charge.

The Committee made the same decision with regard to article 14, which concerns a fair trial and elaborates certain minimum guarantees in the determination of criminal charges. The working group stated that it would be infeasible to expect that all the provisions of article 14 would remain in force in any kind of emergency. The Committee, therefore, decided it was inadvisable to add article 14 to the list of articles from which there can be no derogation.

The list is contained in article 4, which recognizes that in times of public emergency "which threatens the life of the nation" a State party may take measures derogating from their obligations under the Covenant. The article states, however, that even under such circumstances there can be no derogation from certain articles.

In other action, the Committee adopted a nine-paragraph general comment on article 27, which provides for the rights of ethnic, linguistic and religious minorities and states that persons belonging to such groups shall not be denied the right to enjoy their own culture, to profess and practise their own religion or to use their own language.

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The Committee also discussed ideas presented in a report on actions taken by the General Assembly relating to human rights. They agreed that the Committee's working method should be more efficient and that the Centre for Human Rights should be adequately resourced. Committee members largely decried the suggestion that the preparation of periodic reports was a burden on State parties. Rather, some argued, they were legal obligations.

The participation of non-governmental organizations in preparing State reports was opposed as it could lead to the involvement of "Gongos" -- Government-organized non-governmental organizations -- which might become accomplices in covering up some issues. Some members, however, argued that non-governmental organizations could be consulted to make the States' reports more realistic. Most agreed that non-governmental organizations should participate in disseminating the reports.

Members rejected the idea of merging the reports of the various United Nations human rights instruments into a single comprehensive document. They also opposed the suggestion that reports should be thematic. Several members agreed to the suggestion that a special rapporteur be appointed to follow up and monitor compliance with the Committee's comments on State parties' reports before subsequent ones were submitted.

Also this morning, the Committee began discussing a working group recommendation that summaries of the consideration of the States parties' reports be removed from the Committee's annual report to the Assembly. The working group also recommended that the Committee's comments be elaborated for inclusion in the report. It noted that the "excessively long and cumbersome" annual report distracted attention from the importance of the Committee's comments and special decisions on country-specific human rights situations.

When it meets again at 3 p.m. today, the Committee will continue its consideration of its annual report to the General Assembly.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1315th Meeting (PM)

HR/CT/336
6 April 1994

HUMAN RIGHTS COMMITTEE CONSIDERS FORMAT OF REPORT TO GENERAL ASSEMBLY

The Human Rights Committee this afternoon decided to eliminate from its annual report to the General Assembly the summaries of the Committee's consideration of States parties' reports.

The expert members agreed that eliminating the summaries would help focus attention on the Committee's comments and recommendations, speed up publication and ease the burden on the Secretariat. Several Committee members suggested that the document also include a section on States' compliance with their reporting obligations.

The Committee also approved its working group's recommendation that the report include a more comprehensive and systematic version of the Committee's comments. At the same time, summary records should be produced promptly and made more widely available to the media and States parties.

Several experts called attention to the visual presentation of the final report, calling it the "calling card of the Human Rights Committee". One expert described the report as "very ugly", despite the fact that it cost \$500 per page even before it was printed. Some other experts suggested that a professional editor might be employed to improve the format.

A number of Committee members stressed the need to publicize the final comments of the Committee through press conferences and distribution of the report immediately after its publication. One expert suggested that Committee members use their personal contacts with the media to promote the Committee's work.

The Committee will meet again at 3 p.m. Thursday, 7 April.

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United Nations

Press Release

Department of Public Information • News Coverage Service • New York

Human Rights Committee
Fiftieth Session
1319th Meeting (PM)
and Round-up of Session

HR/CT/337
11 April 1994

FIFTIETH SESSION OF COMMITTEE ON HUMAN RIGHTS

NEW YORK, 21 MARCH - 8 APRIL

The adoption of the Amnesty Law in El Salvador, which precludes investigation and punishment for past human rights violations, the many violations of human rights that occurred following the recent rebellion in Chiapas, Mexico, multiple cases of torture, extra-judicial execution and illegal detention in Cameroon and the inadequacy of Costa Rica's report on implementing the International Covenant on Civil and Political Rights, were among the issues the Human Rights Committee considered during its fiftieth session.

During the session, which began on 21 March and concluded Friday afternoon, the panel reviewed the compliance of four States parties with the 1976 International Covenant -- Costa Rica, Mexico, Cameroon and El Salvador -- and approved recommendations on a wide range of issues.

The Committee also adopted a general comment on article 27 of the Covenant, which concerns the right of ethnic, religious and linguistic minorities "to enjoy their own culture, to profess and practise their own religion or to use their own language". The Committee prepares general comments based on the various articles and provisions of the Covenant to clarify and interpret the instrument's provisions, in order to assist States parties in fulfilling their reporting obligations and to promote their further implementation of the Covenant.

Also at this session, the Committee decided to change the presentation of its annual report to the General Assembly by replacing summaries of the Committee's consideration of States parties' reports with a more comprehensive version of its recommendations. In addition to focusing attention on the recommendations, the Committee believes the new format will help speed publication of the report and ease the burden on the Secretariat. A number of Committee members stressed the need to publicize the final comments and considered suggestions that a professional editor be employed to improve the format. At the same time, the Committee said, summary records should be produced promptly and made more widely available to the media and States parties.

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The Committee's 18 experts, who are elected by the States parties to the Convention and serve in their personal capacity, monitor the implementation of the Covenant by its signatories. States parties to the Covenant are required to submit an initial report within one year of ratifying the Covenant, and periodic reports every five years thereafter.

In other actions taken during the session, the Committee decided not to elaborate a draft third optional protocol to the International Covenant, which would have aimed to guarantee the right to a fair trial and remedy under all circumstances.

Concerning the first Optional Protocol, which concerns communications from individuals claiming to be victims of violations of the rights set forth in the Covenant, the Committee adopted ten views under article 5, paragraph 4, of the optional protocol. The Committee will forward its views to the State party concerned and to the individual. It decided that ten other communications were inadmissible. In addition, the Committee amended the rules of procedure concerning confidentiality.

Also during this session, Tamás Bán (Hungary), was sworn in as a member of the Committee. Mr. Ban, whose term will expire on 31 December 1996, was elected by a meeting of the States parties to fill the vacancy in the Committee resulting from the death of Janos Fodor (Hungary).

The Committee agreed on the membership of two working groups, which will meet from 27 June to 1 July. The members of the working group on article 40, which concerns reports by States parties, are: Francisco Jose Aguilar Urbina, Costa Rica; Omran El-Shafei, Egypt; Elizabeth Evatt, Australia; and Bertil Wennergren, Sweden. The working group on communications is composed of: Marco Tulio Bruni Celli, Venezuela; Vojin Dimitrijevic, Yugoslavia; Andreas V. Mavrommatis, Cyprus; Fausto Pocar, Italy; and Waleed Sadi, Jordan.

The Committee will meet again in Geneva from 4 to 29 July, at which time it will consider: the second periodic reports of Afghanistan, Cyprus, Jordan and Libya; the third periodic report of Italy; and the initial report of Azerbaijan. The second periodic report of Togo and the initial report of Latvia might also be considered.

The new High Commissioner for Human Rights, Jose Ayala Lasso, of Ecuador, will meet with the Committee at its next session.

Membership of the Committee

The Committee's 18 expert members are elected by the State parties to the Covenant for a term of four years. Article 28 of the Covenant requires that "they shall be persons of high moral character and recognized competence in the field of human rights".

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They are: Francisco José Aguilar Urbina, of Costa Rica; Nisuke Ando, of Japan; Marco Tulio Bruni Celli, of Venezuela; Christine Chanet, of France; Vojin Dimitrijevic, of Yugoslavia; Omran El-Shafei, of Egypt; Elizabeth Evatt, of Australia; Tamas Ban, of Hungary; Laurel Francis, of Jamaica; Kurt Herndl, of Austria; Rosalyn Higgins, of the United Kingdom; Rajsoomer Lallah, of Mauritius; Andreas V. Mavrommatis, of Cyprus; Birame Ndiaye, of Senegal; Fausto Pocar, of Italy; Julio Prado Vallejo, of Ecuador; Waleed Sadi, of Jordan; and Bertil Wennergren, of Sweden.

States Parties to Covenant

As of March 1994, the following 126 States have ratified or acceded to the Covenant: Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Germany, Grenada, Guatemala, Guinea, Guyana, Haiti, Hungary, Iceland, India and Iran.

Also, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Latvia, Lebanon, Lesotho, Libya, Lithuania, Luxembourg, Macedonia, Madagascar, Malawi, Mali, Malta, Mauritius, Mexico, Moldova, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Vincent and the Grenadines, San Marino, Senegal, Seychelles, Slovak Republic, Slovenia, Somalia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syria, Togo, Trinidad and Tobago, Tunisia, Ukraine, United Kingdom, United Republic of Tanzania, United States, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

Optional Protocols to Covenant

The first Optional Protocol to the Covenant provides for the confidential consideration of communications from individuals who claim to be victims of a violation of any of the rights proclaimed in the Covenant. No communications can be received by the Committee if it concerns a State party to the Covenant that is not also a party to the Optional Protocol.

The following 74 States are parties to the Optional Protocol: Algeria, Angola, Argentina, Armenia, Australia, Austria, Barbados, Belarus, Benin, Bolivia, Bulgaria, Cameroon, Canada, Central African Republic, Chile, Colombia, Congo, Costa Rica, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Equatorial Guinea, Estonia, Finland, France, Gambia, Germany, Guinea, Guyana, Hungary, Iceland, Ireland, Italy, Jamaica, Libya, Lithuania, Luxembourg, Madagascar, Malta, Mauritius, Mongolia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saint Vincent and the Grenadines, San Marino, Senegal, Seychelles, Slovak Republic,

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Slovenia, Somalia, Spain, Suriname, Sweden, Togo, Trinidad and Tobago, Ukraine, Uruguay, Venezuela, Zaire and Zambia.

The Committee is also mandated, under article 41 of the Covenant, to consider communications from a State party alleging violations of the Covenant's provisions by another State party. This procedure can be applied when both States recognize this competence of the Committee by a relevant declaration. So far, the following 43 States have done so: Algeria, Argentina, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Congo, Czech Republic, Denmark, Ecuador, Finland, Gambia, Germany, Guyana, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Republic of Korea, Russian Federation, Senegal, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom, United States and Zimbabwe.

The second Optional Protocol to the Covenant, which aims at the abolition of the death penalty, was adopted by the General Assembly on 15 December 1989 and entered into force on 11 July 1991. It has been ratified or acceded to by 19 States: Australia, Austria, Ecuador, Finland, Germany, Iceland, Ireland, Luxembourg, Mozambique, Netherlands, New Zealand, Norway, Panama, Portugal, Romania, Spain, Sweden, Uruguay and Venezuela.

Consideration of the Reports

During the examination of Costa Rica's third periodic report, Committee experts acknowledged Costa Rica's history of human rights accomplishments, but called on the Government to investigate and remedy the problems which did exist. Particular concern was expressed about protection of the rights of detainees and lengthy pre-trial detention, the inadequate training on human rights standards provided to security personnel and the extent to which their activities were monitored. The Committee also noted with concern that many labour regulations, particularly those relating to freedom of association, were not in conformity with international standards, particularly with regard to the rights of workers employed by small agricultural businesses. Concern was expressed that constitutional preference was given to the Catholic Church. Questions were also raised about the abuse of indigenous minorities by rural assistance guards and the unequal status of women.

There was universal dismay on the part of Committee members that the report was not only late, but did not adhere to the guidelines set forth by the Committee, thus hampering the Committee's work in monitoring compliance with the Covenant. The Committee stressed the importance of sending representatives who had participated in compiling the report to appear before the committee and expressed dissatisfaction that many of their questions had gone unanswered.

The Committee recommended that existing measures to protect the rights of detainees be strengthened and that pre-trial detention be closely monitored. It stressed the importance of adequate training for the police and other security forces with respect to relevant provisions of the Covenant as well as other applicable international human rights standards. It also suggested that

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the Government review reform labour legislation and recommended that the State party take steps to ensure that there is no discrimination in the exercise of the right to religious freedom. In addition, it recommended that further measures be taken to combat gender inequality and to improve the situation of women in Costa Rica.

The Committee further underlined the importance of ensuring that reports were publicized and made accessible in Costa Rica in advance of its consideration by the Committee.

In reviewing the third periodic report of Mexico, the Committee noted that since the recent events in Chiapas in early 1994, the authorities had restricted the rights provided for in the Covenant, without calling for a state of emergency. Committee members were disturbed by the many complaints concerning acts of torture or arbitrary detention, enforced or involuntary disappearances and extra-judicial executions that were not systematically followed by investigations. The conditions in prison and other detention centres and the slowness of judicial procedures continued to be a major cause for concern.

The Committee deplored the gross violation of both the right to life and the right to freedom of expression and was further concerned by limitations on the right to peaceful assembly and freedom of association. The Committee expressed doubts about the electoral system and practices and the climate of violence in which the most recent elections had taken place. It was also concerned about the situation of the indigenous populations.

The Committee recommended that the State party should provide the National Human Rights Commission with the authority to function in complete independence from the political and administrative authorities, allowing it to refer cases to the competent judicial authorities where it found that rights guaranteed by the Covenant had been violated. The Committee also recommended that cases of extrajudicial executions, torture and arbitrary detentions be investigated, suspects brought before the courts, those found guilty be punished, and the victims be compensated. Law enforcement officials should be properly trained to ensure respect for the basic rights of the persons placed under their control. The Committee experts recommended electoral reform and the participation of international observers during the balloting.

Members of the Committee also invited the authorities to pursue programmes for the protection of vulnerable children, particularly street children, to develop the status of women and to make greater efforts to combat family violence. The Committee further recommended that the Government give consideration to more equitable land distribution within the framework of agrarian reform and that it take into account the rights and aspirations of indigenous populations in that connection. Indigenous populations should have the opportunity to participate in decision-making on matters that concern them, the Committee stated.

In its comments and recommendations on the second periodic report of Cameroon, the Committee expressed concern that the number of offences

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punishable by the death penalty was still excessive. It deplored the infringements of the right to life by representatives of the security forces, the army and even paramilitary groups. The Committee further deplored the multiple cases of torture, ill-treatment, extrajudicial execution and illegal detention, suffered in particular by journalists and political opponents. Such brutality was practised in prisons and in detention centres where men and women, convicted and unconvicted prisoners, adult and juvenile offenders were held in the same, generally insalubrious, cells.

The Committee also deplored the fact that the Government had not undertaken reforms to combat the factors impeding the equality of men and women. The Committee questioned the the freedom of the press, independence of the judiciary and the conditions in which the presidential elections of 11 October 1992 were held, in particular the numerous allegations of fraud made during the election.

In its recommendations, the Committee stated that the Cameroonian authorities should undertake constitutional reform to incorporate in the national legal system all the rights guaranteed by the Covenant and that measures be taken to organize free, equitable and transparent elections. It invited the Government to disseminate the Covenant by culturally appropriate means, so that everyone had a knowledge of his rights, whatever his place of residence and his situation in Cameroonian society.

In addition, the Committee urged the authorities of Cameroon to revise the Criminal Code, with a view to restricting the number of offences carrying the death penalty. It strongly recommended that the Government take all necessary measures to prevent summary executions, torture, ill-treatment and illegal detention, that all such cases be investigated in order to bring those suspected of having committed such acts before the courts, that those found guilty be punished and that the victims be compensated.

The Committee invited Cameroon's authorities to modify their legislation applicable to administrative detention and to put an end to arbitrary or illegal detention and to adopt, as a matter of urgency, the measures necessary to ensure that all persons in prisons and detention centres be treated with humanity and dignity. Measures should be taken to guarantee the independence and impartiality of the judiciary. It further invited the Government to improve the situation of women.

The Committee, noting that El Salvador had recently emerged from a long and devastating civil war, regretted that its second periodic report neither accurately nor candidly represented the actual human rights situation. It regretted, in particular, the complete lack of information regarding either the report of the Commission on the Truth and the implementation of its recommendations or the Amnesty Law and its impact on the State party's obligations under the Covenant. It stated that many questions put to the delegation received no reply.

While the Committee welcomed the legal reform undertaken in some areas, it expressed concern that there continued to be serious and systematic

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violations of the right to life carried out by paramilitary groups. It also noted that most recommendations of the Commission on the Truth had still not been implemented and that a gap persisted between constitutional and legal guarantees and the actual application of those guarantees. In addition, the rights and freedoms in the Covenant had not been fully included in the Constitution.

The Committee expressed grave concern over the adoption of the Amnesty Law, which seriously undermined efforts to re-establish respect for human rights in El Salvador and to prevent a recurrence of the massive human rights violations experienced in the past. It stated that the failure to exclude violators from service in Government, particularly in the military, the National Police and the judiciary, would seriously undermine the transition to peace and democracy. The Committee expressed particular concern over the full and effective control by civilian authorities over the military and the security forces and the fact that high officials of the judiciary had been implicated by the Commission on the Truth in human rights violations.

The Committee recommended that the Government take immediate steps to fully implement the recommendations of the Commission on the Truth. It further recommended that El Salvador review the effect of the Amnesty Law and amend or repeal it, as necessary, and that all necessary measures be urgently taken to combat continuing human rights violations. All violations should be thoroughly investigated, the offenders punished and the victims compensated. In that connection, the Committee recommended that the Office of the Procurator for the Protection of Human Rights should be strengthened, both with regard to resources and competence, in order to ensure that the Procurator might effectively carry out his or her responsibilities.

The Committee recommended that major reform of the judiciary be undertaken, with a view to establishing an independent and impartial judicial system free from political pressure and intimidation. It further recommended that respect for human rights be institutionalized at all levels of the Government and recognized as an essential element of the process of national reconciliation and reconstruction. To that end, the Committee recommended: that all articles of the Covenant be fully incorporated into the national legal system; that comprehensive human rights training be provided to judges, the police and the military; and that human rights education be provided in schools at all levels. The active participation of non-governmental organizations in the democratization process should also be encouraged.

El Salvador was given a new deadline of 31 December 1995 for its third periodic report.